

# HOUSE . . . . . No. 4307

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## The Commonwealth of Massachusetts

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DEVAL L. PATRICK  
GOVERNOR

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October 11, 2007.

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislative proposal entitled, "An Act Establishing and Regulating Resort Casinos in the Commonwealth."

There is a growing need to spur economic development and job growth throughout the Commonwealth, and this innovative and responsible bill meets those demands. This legislation authorizes the creation of no more than three resort casinos to be built in different regions of the state. Establishing these resort casinos will result in tens of thousands of construction jobs, over 20,000 permanent jobs and billions of dollars invested in our economy. In addition to economic development and job creation, this bill provides that millions of dollars of additional revenue will be used annually to provide immediate property tax relief and to make badly needed road, and bridge and other transportation infrastructure repairs.

Further, this bill balances the Commonwealth's urgent economic development needs against its serious need to effectively mitigate any negative public health or safety costs related to expanded gaming. Specifically, this plan allots a high level of resources, to be funded by the resort casinos themselves, to meet any increased demand for social service and public health programs resulting from

gaming. Additionally, this bill provides for the most comprehensive regulatory and enforcement system in the country. The Massachusetts Gaming Control Authority will have strong regulatory, oversight and enforcement powers, and violators will be aggressively fined and penalized.

Addressing the needs of regional economies throughout the Commonwealth, this bill takes a critical step toward expanding economic development and job creation. Along with the Life Sciences Initiative, the Readiness Project and the Administration's five year capital plan, the construction and operation of up to three resort casinos will help create more than 100,000 new jobs by 2010 and secure the Commonwealth's position as a leader in the global economy. Accordingly, I urge your early and favorable consideration of this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", with a large, stylized flourish at the end.

DEVAL L. PATRICK,  
*Governor.*

**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Seven.

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AN ACT ESTABLISHING AND REGULATING RESORT CASINOS IN THE  
COMMONWEALTH.

1     *Whereas*, The deferred operation of this act would tend to  
2     defeat its purpose, which is to provide forthwith for the imme-  
3     diate economic development and revenue needs of the Common-  
4     wealth, therefore it is hereby declared to be an emergency law,  
5     necessary for the immediate preservation of the public conve-  
6     nience.

*Be it enacted by the Senate and House of Representatives in General  
Court assembled, and by the authority of the same, as follows:*

1     SECTION 1. The General Court finds and declares that:—

2     (a) promoting the economic viability of the Commonwealth is a  
3     fundamental purpose of state government;

4     (b) growing the Commonwealth's economy is the best way to  
5     make the investments in those areas that will strengthen the Com-  
6     monwealth;

7     (c) the creation of resort casinos is an important part of an  
8     overall strategy to ensure the state's economic growth;

9     (d) authorizing 3 resort casinos will result in tens of thousands  
10    of construction jobs and billions of dollars of construction-related  
11    spending in the Commonwealth;

12    (e) once constructed, the 3 resort casinos will create tens of  
13    thousands of new jobs for residents of the Commonwealth and  
14    offer a wide array of employment opportunities for individuals  
15    with diverse educational backgrounds and skills, while enhancing  
16    the Commonwealth's workforce development system by creating  
17    career advancement opportunities for casino employees;

18    (f) ensuring that the resort casinos are located in different  
19    regions of the state expands economic development and job cre-  
20    ation broadly throughout the whole Commonwealth and recog-  
21    nizes that the needs of regional economies must be addressed;

22 (g) revenue generated from resort casinos can be used to fund  
23 critical needs in the Commonwealth, including investments and  
24 upgrades to roads and bridges, and other transportation infrastruc-  
25 ture;

26 (h) such investment in infrastructure is an economic necessity  
27 and will facilitate economic development and job creation;

28 (i) property tax burden has soared, hitting middle and lower  
29 income homeowners the hardest, and additional revenue from  
30 resort casinos can be used to offset this burden;

31 (j) property tax reduction is an essential tool for community  
32 stabilization;

33 (k) addressing the social costs of gaming is an important and  
34 necessary part of any comprehensive casino plan and therefore  
35 this act provides for a high level of funding for these costs and an  
36 evaluation mechanism to ensure we understand fully the impacts  
37 of gaming in the Commonwealth;

38 (l) a rigorous gaming regulatory and enforcement scheme is  
39 needed to ensure fairness and integrity in the gaming industry, and  
40 therefore this act contains a detailed strategy to ensure proper  
41 oversight and evaluation of resort casinos in our Commonwealth;

42 (m) the success of gaming in this Commonwealth requires  
43 public confidence and trust that licensed gaming will be con-  
44 ducted honestly and competitively, that the resort casinos licensed  
45 in the Commonwealth will not unduly impact the quality of life  
46 enjoyed by residents of the surrounding communities, and that  
47 gaming will be free from criminal and corruptive elements;

48 (n) public confidence and trust can only be maintained by strict  
49 regulation of all persons, locations, practices, associations and  
50 activities related to the operation of the resort casinos licensed in  
51 the Commonwealth;

52 (o) the resort casinos licensed in the Commonwealth must  
53 therefore be controlled to protect the public health, safety, and  
54 well being of the inhabitants of the Commonwealth, to foster the  
55 stability and success of gaming and to preserve the competitive  
56 economy of the Commonwealth;

57 (p) the Massachusetts gaming control authority is therefore cre-  
58 ated as the custodian of the public trust relative to the gaming  
59 industry and is explicitly granted broad powers within this act so

60 it may have the full authority to oversee the gaming industry and  
61 ensure that resort casino operations are transparent; and  
62 (q) to delay or deny the Commonwealth the opportunity to  
63 increase jobs, attain new revenue, and address critical needs  
64 would be contrary to the best interests of our residents.

1 SECTION 2. Section 39 of Chapter 3 of the General Laws, as  
2 appearing in the 2006 Official Edition, is hereby amended by  
3 inserting in line 63 after the words “Loan Authority” the  
4 following words:— Massachusetts Gaming Control Authority,

1 SECTION 3. Section 7 of Chapter 4 of the General Laws, as so  
2 appearing, is hereby amended by deleting lines 63 through 65 and  
3 inserting in place thereof the following paragraphs:—

4 Tenth, “Gaming,” any banking or percentage game played with  
5 cards, dice, tiles, dominoes, or any electronic, electrical, or  
6 mechanical device or machine for money, property, checks, credit  
7 or any representative of value, but excluding:—

8 (a) the game of bingo conducted pursuant to Chapter 271;

9 (b) any charitable gaming, so called, conducted pursuant to  
10 Chapter 271;

11 (c) pari-mutuel wagering on horse and dog races, whether live  
12 or simulcast, authorized under Chapter 128A and Chapter 128C;  
13 and

14 (d) any lottery game conducted by the state lottery commission,  
15 in accordance with Section 24 of Chapter 10.

16 “Illegal gaming” or “unlawful gaming” shall include every act  
17 punishable under any law relative to lotteries and the buying and  
18 selling of pools or registering of bets, except those acts permitted  
19 under Section 24 of Chapter 10, Chapter 12B, Chapter 128A,  
20 Chapter 128C, and Chapter 271.

1 SECTION 4. Section 22B½ of Chapter 7, is hereby amended by  
2 inserting in line 23 after the words “Massachusetts Educational  
3 Loan Authority” the following words:—Massachusetts Gaming  
4 Control Authority, .

1 SECTION 5. Section 22G of Chapter 7, is hereby amended by  
2 inserting in line 54 after the words “Massachusetts Educational  
3 Loan Authority” the following words:—  
4 Massachusetts Gaming Control Authority,

1 SECTION 6. The General Laws are hereby amended by  
2 striking out Chapter 12B and inserting in place thereof the  
3 following chapter:—

4 **CHAPTER 12B.**  
5 **THE MASSACHUSETTS GAMING CONTROL AUTHORITY.**

6 Section 1. Definitions. As used in this chapter, the following  
7 words shall have the following meanings unless the context  
8 clearly requires otherwise:—

9 “Affiliate”, any person that a licensee or applicant directly or  
10 indirectly controls or in which an applicant or licensee possesses  
11 an interest. For the purposes of this definition, “controls” means  
12 either (i) directly or indirectly holding more than 10 percent of  
13 voting membership rights or voting stock or partnership interests,  
14 or (ii) that a majority of the directors, general partners, trustees, or  
15 members of an entity’s governing body are representatives of, or  
16 are directly or indirectly controlled by, the licensee or applicant.  
17 For the purposes of this definition, “possesses an interest in”  
18 means either (i) directly or indirectly holding more than 5 percent  
19 of voting membership rights or voting stock, or (ii) that at least 25  
20 percent of the directors, general partners, trustees, or members of  
21 an entity’s governing body are representatives of, or are directly  
22 or indirectly controlled by, the licensee or applicant.

23 “Applicant”, a person who has applied for a casino license,  
24 work permit, or approval of any act or transaction pursuant to this  
25 chapter.

26 “Authority”, the Massachusetts gaming control authority, estab-  
27 lished pursuant to this chapter.

28 “Board”, the board of the Massachusetts gaming control  
29 authority.

30 “Casino license”, a license issued by the authority under this  
31 chapter that authorizes the person named therein to operate a  
32 resort casino in the Commonwealth.

33 “Casino licensee”, any licensee holding a valid casino license  
34 issued under this chapter.

35 “Casino work permit”, any permit issued by the authority  
36 authorizing the holder to be employed as an employee in a  
37 licensed casino.

38 “Controlled game” or “controlled gaming”, any gaming con-  
39 ducted in a gaming establishment and located in a licensed casino  
40 in the Commonwealth pursuant to this chapter.

41 “Division”, the division of gaming investigation and enforce-  
42 ment, within the department of the attorney general, as established  
43 pursuant to this chapter.

44 “Electronic gaming device”, any game of chance, mechanical,  
45 electronic or otherwise featuring coin drop and payout as well as  
46 printed tabulations or credits to a paper or electronic account,  
47 whereby the software or hardware of the device predetermines the  
48 presence or lack of a winning combination and payout, including  
49 microprocessor-controlled electronic devices that allow a player  
50 to play games of chance, which may be affected by an element of  
51 skill, activated by the insertion of a coin or currency or by the use  
52 of a credit and awards game credits, cash, tokens, replays or a  
53 written statement of the player’s accumulated credits, which  
54 written statements are redeemable for cash; and including slot  
55 machines, video lottery terminals and video facsimile machines of  
56 any type.

57 “Employee”, any natural person employed to perform services  
58 for compensation as an employee by a casino, including but not  
59 limited to casino employees, casino key employees, casino secu-  
60 rity employees, casino service employees, or any other person  
61 who works for any ancillary service operating on the site of a  
62 casino, including but not limited to hotels, restaurants, gaming  
63 establishments, and entertainment facilities.

64 “Executive Director”, the executive director of the Massachu-  
65 setts gaming control authority, as established pursuant to this  
66 chapter.

67 “Gaming”, as defined in Section 7 of Chapter 4.

68 “Gaming establishment”, any building, room, place or other  
69 indoor or outdoor premises where any gaming occurs, including  
70 all public and non-public areas of any such establishment.

71 “Gaming equipment”, any equipment, device, object or con-  
72 trivance, or machine, whether mechanical, electromechanical, or  
73 electronic, which is specifically designed or manufactured for use  
74 in the operation of gaming.

75 “Gaming services”, goods or services provided to any gaming  
76 establishment directly in conjunction with the operation of  
77 gaming, including security services, junket services, gaming  
78 schools or training activities, promotional services, printing or  
79 manufacture of betting tickets and manufacture, distribution,  
80 maintenance, testing or repair of electronic gaming devices, or  
81 goods or services provided by any person pursuant to which the  
82 person receives payments based on earnings, profits or net  
83 receipts from gaming.

84 “Gross gaming revenue”, the total, prior to the deduction of any  
85 operating, capital or other expenses whatsoever, less only the total  
86 of all sums paid out as winnings, of all gaming establishment rev-  
87 enue generated by the gaming establishment of any casino  
88 licensed under this chapter derived from the conduct of any game  
89 conducted at a licensed casino.

90 “Holding company”, any corporation, firm, partnership, trust,  
91 or other entity that, directly or indirectly, owns, has the power or  
92 right to control, or holds the power to vote on, all or any part of  
93 the partnership interests or outstanding voting securities of a cor-  
94 poration or any other business entity that holds or applies for a  
95 gaming license. In addition, a holding company indirectly has,  
96 holds, or owns any power or right mentioned herein if it does so  
97 through any interest in a subsidiary or affiliate or successive sub-  
98 sidiaries or affiliates, however many of these subsidiaries or affili-  
99 ates may intervene between the holding company and the  
100 corporate licensees or applicant.

101 “Intermediary company”, any corporation, firm, partnership,  
102 trust, or other entity, other than a natural person, that is both of the  
103 following:—

104 (a) a subsidiary with respect to a holding company, and

105 (b) a holding company with respect to a corporation or limited  
106 partnership or other entity that holds or applies for a gaming  
107 license.



108 “License”, a license issued to operate electronic gaming  
109 devices, to persons employed by gaming establishments, to  
110 gaming suppliers, to parties in interest, and to gaming schools.

111 “Licensed casino”, any resort casino licensed to conduct con-  
112 trolled gaming pursuant to this chapter.

113 “Licensed casino operator”, any operating entity that conducts  
114 controlled gaming within a gaming establishment pursuant to a  
115 license issued under this chapter.

116 “Licensee”, any person or party holding a valid license under  
117 this chapter.

118 “Licensing fee”, the fee required to be paid to the Common-  
119 wealth by a licensed casino operator to operate a resort casino.

120 “Local host community”, 1 or more towns or cities in which a  
121 resort casino is located.

122 “Operating licensing payment”, the payment, based on a per-  
123 centage of gross gaming revenue, that a licensed casino operator  
124 makes to the Commonwealth.

125 “Party in interest”, any corporation, firm, partnership, trust, or  
126 other entity or person with any direct or indirect pecuniary interest  
127 in a licensed gaming establishment, or a person who owns any  
128 interest in the premises of a licensed gaming establishment, or  
129 land upon which such premises is licensed, whether he leases the  
130 property directly or through an affiliate.

131 “Person” or “party”, a natural person, corporation, partnership,  
132 limited partnership, trustee, holding company, joint venture, asso-  
133 ciation, or any business entity.

134 “Resort casino”, a casino which shall include a gaming estab-  
135 lishment and other non-gaming amenities, including but not lim-  
136 ited to:— hotels, entertainment venues, retail stores, recreational  
137 facilities, and restaurants all located at 1 site.

138 “Substantial party in interest”, any person holding a greater than  
139 1 percent direct or indirect pecuniary interest, whether as owner,  
140 mortgagee or otherwise, in an operating entity, premises, or any  
141 other licensee or applicant; but, excluding any shareholder  
142 holding less than a 5 percent interest in a public company that is a  
143 substantial party in interest.

144 Section 2. Establishment of the Massachusetts Gaming Control  
145 Authority. (a) There is hereby created a body politic and corporate  
146 to be known as the Massachusetts gaming control authority. The

147 authority is hereby constituted a public instrumentality and the  
148 exercise by the authority of the powers conferred by this chapter  
149 shall be deemed to be the performance of an essential govern-  
150 mental function. The purpose of the authority is to provide for the  
151 establishment of resort casinos, and to license, regulate, and  
152 oversee licensed casinos and controlled gaming at licensed  
153 casinos in the Commonwealth.

154 (b) Board. The authority shall be governed and have its corpo-  
155 rate powers exercised by a board of directors consisting of the  
156 treasurer or his designee, the auditor or his designee, and 5 mem-  
157 bers to be appointed by the governor, 1 of whom shall have expe-  
158 rience in legal issues with respect to gaming establishments; 1 of  
159 whom shall have experience in finance and financial markets; 1 of  
160 whom shall have experience with the regulatory aspects needed  
161 for gaming establishments; 1 of whom shall have experience in  
162 accounting; and 1 of whom shall have experience in public health.

163 With the exception of the treasurer and auditor, no board  
164 member shall hold or be a candidate for elected political office.  
165 Each board member shall be a citizen of the United States and a  
166 resident of the Commonwealth. No person who has been con-  
167 victed of a felony or of a misdemeanor shall be eligible to serve  
168 on the board.

169 Three of the members appointed by the governor shall serve a  
170 term coterminous with that of the governor. The other 2 members  
171 appointed by the governor shall serve a term of 5 years. Any  
172 person appointed to fill a vacancy in the office of a member of the  
173 board shall be appointed in a like manner and shall serve for only  
174 the unexpired term of such member. Any member shall be eligible  
175 for reappointment but no member shall serve more than 2 terms of  
176 5 years each. Any member may be removed from his appointment  
177 by the governor for cause. The governor shall from time to time  
178 designate a member or members of the board as its chairperson or  
179 co-chairperson as applicable.

180 Five of the members shall constitute a quorum and the affirma-  
181 tive vote of a majority of members present at a duly called  
182 meeting where a quorum is present shall be necessary for any  
183 action to be taken by the board. Any action required or permitted  
184 to be taken at a meeting of the board may be taken without a  
185 meeting if all of the members consent in writing to such action

186 and such written consents are filed with the records of the minutes  
187 of the meetings of the board. Such consents shall be treated for all  
188 purposes as a vote at a meeting.

189 The members of the board shall serve without compensation,  
190 but each member shall be entitled to reimbursement for his actual  
191 and necessary expenses incurred in the performance of his official  
192 duties.

193 The board annually may elect 1 of its members as vice-chair-  
194 person, shall elect a secretary and a treasurer, and may elect or  
195 appoint other officers as it may deem necessary, none of whom,  
196 other than the vice-chairperson, are required to be members of the  
197 board. The secretary shall keep a record of the proceedings of the  
198 board and shall be custodian of all books, documents, and papers  
199 filed by the board and of its minute book and seal. The secretary  
200 shall cause copies to be made of all minutes and other records and  
201 documents of the authority and shall certify that such copies are  
202 true copies, and all persons dealing with the authority may rely  
203 upon such certification. The treasurer shall be the chief financial  
204 and accounting officer of the authority and shall be in charge of  
205 its funds, books of account and accounting records. The officers  
206 of the board shall be subject to the same requirements as the mem-  
207 bers of the board under this act.

208 Meetings of the authority board shall be subject to Sections  
209 11A and 11A½ of Chapter 30A, provided, however, that any dis-  
210 cussion or consideration of law enforcement or investigatory  
211 information, trade secrets or commercial or financial information  
212 may be held by the board in executive session closed to the public  
213 notwithstanding the provisions of Section 11A½ of Chapter 30A,  
214 but the purpose of any such executive session shall be set forth in  
215 the official minutes of the authority board and no business which  
216 is not directly related to such purpose shall be transacted nor shall  
217 any vote be taken during such executive session. A public record  
218 of every vote shall be maintained at the authority.

219 (c) Executive Director. The board shall have the power to  
220 appoint and employ an executive director, and to fix the director's  
221 compensation and conditions of employment. The executive  
222 director shall be the chief executive, administrative and opera-  
223 tional officer of the authority and shall direct and supervise  
224 administrative affairs and the general management of the

225 authority. The executive director may, subject to the general  
226 supervision of the board, employ other employees, consultants,  
227 agents, including legal counsel, and advisors, and shall attend  
228 meetings of the board.

229 (d) Advisory Committee. The authority shall be advised by an  
230 advisory committee consisting of 12 members, including:— the  
231 secretary of health and human services, the secretary of adminis-  
232 tration and finance, the secretary of housing and economic devel-  
233 opment, the secretary of labor and workforce development, the  
234 secretary of public safety and security, or their designees; 3 mem-  
235 bers of the committee who shall be appointed by the governor, 1  
236 of whom shall be a representative of organized labor, 1 of whom  
237 shall be an expert on gaming addiction, and 1 of whom shall be a  
238 police chief; 2 of the members of the committee who shall be  
239 appointed by the senate president; and 2 members who shall be  
240 appointed by the speaker of the house of representatives.

241 Each member of the advisory committee shall serve for a term  
242 of 3 years; provided, however, that of the initial appointed mem-  
243 bers, 1 of the senate president's and speaker's appointments, and 3  
244 of the governor's appointments shall serve a term of 2 years. Any  
245 person appointed to fill a vacancy in the office of a member of the  
246 advisory committee shall be appointed in a like manner and shall  
247 serve for only the unexpired term of such member. Any member  
248 shall be eligible for reappointment but no member shall serve  
249 more than 2 three-year terms. The governor shall from time to  
250 time designate a member or members of the advisory committee  
251 as its chairperson or co-chairperson as applicable.

252 The members of the advisory committee shall serve without  
253 compensation, but each member shall be entitled to reimburse-  
254 ment for his actual and necessary expenses incurred in the perfor-  
255 mance of his official duties.

256 (e) Board members, officers and members of the advisory com-  
257 mittee who are not compensated employees of the authority shall  
258 not be liable to the Commonwealth, to the authority, or to any  
259 other person as a result of their activities, whether ministerial or  
260 discretionary, as such board members, officers, or advisory com-  
261 mittee members except for willful dishonesty or intentional viola-  
262 tions of law. Neither members of the authority nor any person  
263 executing bonds or policies of insurance shall be liable personally

264 thereon or be subject to any personal liability or accountability by  
265 reason of the issuance thereof. The board of directors may pur-  
266 chase liability insurance for board members, officers and  
267 employees and may indemnify these persons against claims of  
268 others.

269 (f) Any documentary materials or data whatsoever made or  
270 received by any member or employee of the authority and con-  
271 sisting of, or to the extent that such materials or data consist of,  
272 law enforcement or investigatory information, trade secrets or  
273 commercial or financial information regarding the operation of  
274 any business conducted by an applicant for any form of assistance  
275 which the authority is empowered to render or regarding the com-  
276 petitive position of such applicant in a particular field of  
277 endeavor, shall not be deemed public records of the authority and  
278 specifically shall not be subject to the provisions of Section 10 of  
279 Chapter 66.

280 (g) The Massachusetts gaming control authority board shall be  
281 the successor to the Massachusetts gambling advisory board  
282 established by Section 39 of Chapter 60 of the acts of 1994.

283 Section 3. Powers and Duties of the Authority. The authority  
284 shall have all powers necessary or convenient to carry out and  
285 effectuate its purposes, as defined in Section 2(a), including,  
286 without limiting the generality of the foregoing, the powers to:—

287 (a) adopt an official seal;

288 (b) sue and be sued, to initiate or defend civil actions relating to  
289 its properties and affairs, and to be liable in tort in the same  
290 manner as a private person; provided however, that the authority  
291 is not authorized to become a debtor under the United States  
292 Bankruptcy Code;

293 (c) appoint officers and employees;

294 (d) execute all instruments necessary or convenient thereto for  
295 accomplishing the purposes of this chapter;

296 (e) enter into agreements or other transactions with any person,  
297 including without limitation any public entity or other govern-  
298 mental instrumentality or authority in connection with its powers  
299 and duties under this chapter;

300 (f) appear in its own behalf before boards, commissions,  
301 departments or other agencies of municipal, state or federal gov-  
302 ernment;

- 303 (g) obtain insurance;
- 304 (h) apply for and accept subventions, grants, loans, advances  
305 and contributions from any source of money, property, labor or  
306 other things of value, to be held, used and applied for its corporate  
307 purposes;
- 308 (i) provide and pay for such advisory services and technical  
309 assistance, including but not limited to accountants, financial  
310 experts, architects, attorneys, engineers, planners, real estate  
311 experts and other consultants as may be necessary in its judgment  
312 to carry out the purposes of this chapter and fix their compensa-  
313 tion;
- 314 (j) prepare, publish and distribute, with or without charge, as  
315 the authority may determine, such studies, reports and bulletins  
316 and other material as the authority deems appropriate;
- 317 (k) investigate and determine the percentage of population of  
318 minority groups in the Commonwealth or in areas thereof from  
319 which the work force for the casino is or may be drawn;
- 320 (l) establish and adopt such percentages as guidelines in deter-  
321 mining the adequacy of affirmative-action programs submitted for  
322 approval pursuant to the provisions of this chapter;
- 323 (m) determine the types of conduct performed by licensees or  
324 applicants for licenses. The authority may approve or disapprove  
325 transactions and events as provided in this chapter, take actions  
326 reasonably designed to ensure that no unsuitable persons are asso-  
327 ciated with controlled gaming, and take actions reasonably  
328 designed to ensure that gaming activities take place only in suit-  
329 able premises within licensed casinos;
- 330 (n) monitor the conduct of all licensees and other persons  
331 having a material involvement, directly or indirectly, with a  
332 licensee for the purpose of ensuring that licenses are not issued to,  
333 or held by, and there is no direct or indirect material involvement  
334 with a licensee by unqualified, disqualified, or unsuitable persons,  
335 or persons whose operations are conducted in unsuitable manner  
336 or in unsuitable or prohibited places, as provided herein;
- 337 (o) annually determine the maximum number of electronic  
338 gaming devices and wagering games and the types of wagering  
339 games permitted in the Commonwealth and the number permitted  
340 at each gaming establishment; provided however, that a licensee

341 shall be permitted to petition the authority for approval of addi-  
342 tional wagering games and new types of wagering games;

343 (p) develop criteria, other than those outlined herein, to assess  
344 which bids submitted by applicants for casino licenses under this  
345 chapter will provide the highest and best value to the Common-  
346 wealth;

347 (q) determine which applicants shall be awarded casino licenses  
348 and other licenses in accordance with the terms of this chapter;

349 (r) conduct auctions, if necessary, for the provision of estab-  
350 lishing licensed casino operators;

351 (s) require any person to apply for a license as provided in this  
352 chapter and approve or disapprove any such application or other  
353 transactions, events, and processes as provided in this chapter;

354 (t) gather facts and information applicable to its obligation to  
355 issue licenses, to suspend or revoke licenses, work permits, or  
356 registrations granted to any person for:— violation of any provi-  
357 sion of this chapter or regulations adopted hereunder; willfully  
358 violating an order of the authority directed to such person; the  
359 conviction of any criminal offense under this chapter; or the com-  
360 mission of any violation of this chapter or other offense which  
361 would disqualify such person from holding a license or registra-  
362 tion. The authority may also suspend the license or registration of  
363 any person pending hearing and determination, in any case in  
364 which license or registration revocation could result;

365 (u) with the assistance of the state police unit assigned to the  
366 division, conduct investigations into the qualifications of all appli-  
367 cants for employment by the authority and by any gaming estab-  
368 lishment in a resort casino and all applicants for licensure;

369 (v) request and receive from the state police, the criminal his-  
370 tory systems board, or other criminal justice agencies, including  
371 but not limited to the federal bureau of investigation and the fed-  
372 eral internal revenue service, such criminal offender record infor-  
373 mation, criminal intelligence information and information relating  
374 to criminal and background investigations as necessary for the  
375 purpose of evaluating employees of, and applicants for employ-  
376 ment by, the authority and any gaming establishment in a resort  
377 casino, and evaluating licensees and applicants for licensure.  
378 Upon the written request of the executive director, the state  
379 authority may receive from the district and juvenile courts, the

380 state police, or the criminal history systems board, such informa-  
381 tion relating to juvenile proceedings as necessary for the purpose  
382 of evaluating employees of, and applicants for employment by, the  
383 authority and any gaming establishment in a resort casino, and  
384 evaluating licensees of, and applicants for, licensure;

385 (w) conduct hearings in accordance with the provisions of  
386 Chapter 30A;

387 (x) levy and collect fees, taxes, and fines and impose penalties  
388 and sanctions for the violation of the provisions of the licensing  
389 provisions of this chapter and the regulations adopted hereunder.  
390 At any time within 5 years after any amount of fees, interest,  
391 penalties or tax required to be collected pursuant to the provisions  
392 of this chapter shall become due and payable, the commission  
393 may bring a civil action in the courts of this Commonwealth or  
394 any other state or of the United States, in the name of the Com-  
395 monwealth of Massachusetts, to collect the amount delinquent,  
396 together with penalties and interest. An action may be brought  
397 whether or not the person owing the amount is at such time an  
398 applicant, licensee or registrant pursuant to the provisions of this  
399 act. If such action is brought in this Commonwealth, a writ of  
400 attachment may be issued and no bond or affidavit prior to the  
401 issuance thereof shall be required. In all actions in this Common-  
402 wealth, the records of the authority shall be prima facie evidence  
403 of the determination of the fee or tax or the amount of the delin-  
404 quency. Each debt that is due and payable as a result of fees,  
405 interest, penalties, or taxes required to be collected pursuant to the  
406 provisions of this chapter or the regulations adopted thereunder,  
407 including any compensation authorized pursuant to this chapter,  
408 and each regulatory obligation imposed as a condition upon the  
409 issuance or renewal of a license which requires the licensee to  
410 maintain, as a fiduciary, a fund for a specific regulatory purpose,  
411 shall constitute a lien on the real property in this Commonwealth  
412 owned or hereafter acquired by the applicant, licensee, or regis-  
413 trant owing such a debt or on whom such an obligation has been  
414 imposed. Except as otherwise provided in this chapter, such a lien  
415 shall be a first lien paramount to all prior or subsequent liens,  
416 claims, or encumbrances on that property;

417 (y) be present through its inspectors and agents at all times  
418 during the operation of any resort casino for the purpose of certi-



419 fying the revenue thereof, receiving complaints from the public  
420 relating to the conduct of gaming and wagering operations, exam-  
421 ining records of revenues and procedures, inspecting and auditing  
422 all books, documents, and records of any licensee, conducting  
423 periodic reviews of operations and facilities for the purpose of  
424 evaluating current or suggested provisions of this chapter and the  
425 regulations adopted thereunder, and otherwise exercising its over-  
426 sight responsibilities with respect to resort casinos;

427 (z) visit, have access to and inspect, examine, photocopy, and  
428 test, without prior notice or approval of any party, all equipment  
429 and supplies in any licensed gaming establishment or in any  
430 premises where gaming equipment is manufactured, sold or dis-  
431 tributed;

432 (aa) have access to and inspect, examine, photocopy, and audit  
433 all relevant and material papers, books, and records of any affil-  
434 iate of a licensed gaming establishment that the executive director  
435 knows or reasonably suspects is involved in the financing, opera-  
436 tion, or management of any entity licensed pursuant to this  
437 chapter, either on the affiliate's premises or elsewhere, as practi-  
438 cable, in the presence of the affiliate or any agent thereof;

439 (bb) require that the books and financial or other records or  
440 statements of any licensee be kept in a manner that the authority  
441 or the bureau deems proper;

442 (cc) audit all relevant material papers, books, and records of an  
443 applicant for or person holding any license under this chapter, on  
444 such applicant or licensee's premises or elsewhere, as practicable,  
445 in the presence of the applicant or licensee or his agent;

446 (dd) provide access to records and cooperate with the division,  
447 including answering the division's requests for documents and  
448 refer to the division any evidence of a violation of this chapter or  
449 the regulations adopted thereunder;

450 (ee) establish licensure and work permits for employees  
451 working at the casino and minimum training requirements; pro-  
452 vided further the authority may review the professional require-  
453 ments of employees and update them as needed. The authority  
454 shall require that all casino employees be properly trained in their  
455 respective professions. The authority may recognize an  
456 employee's license from out of state gaming schools if they meet  
457 the minimum requirements for the authority and may establish a

458 process for reciprocal licensing of out of state licensed casino  
459 employees;

460 (ff) refer to the Massachusetts commission against discrimina-  
461 tion matters and information concerning possible violations of  
462 Massachusetts law;

463 (gg) require the designation by a licensee of an equal employ-  
464 ment officer to enforce the provisions of this section and the regu-  
465 lations adopted hereunder;

466 (hh) ensure that there is no duplication of duties and responsi-  
467 bilities between it and the division, provided, however, that the  
468 authority may not place any restriction upon the division's ability  
469 to investigate or prosecute violations of this chapter or the regula-  
470 tions adopted hereunder;

471 (ii) enforce in a court of law the provisions of this section or to  
472 join in or assist any enforcement proceeding initiated by any  
473 aggrieved person;

474 (jj) refer any suspected criminal violation of this chapter to the  
475 division; provided, however, that nothing in this subsection shall  
476 be deemed to limit the investigatory and prosecutorial powers of  
477 other state and local officials and agencies;

478 (kk) provide technical assistance to towns, cities, and districts  
479 that are conducting referendum votes for the purposes of this  
480 chapter;

481 (ll) exercise any other powers of a corporation organized under  
482 Chapter 156B;

483 (mm) make an annual report of its finance activities, including  
484 number of licenses, fines, penalties and violations and other rele-  
485 vant information and make recommendations for improved opera-  
486 tions of the licensed casinos to the governor and the general court  
487 by March 31, for the prior calendar year; and,

488 (nn) adopt regulations, pursuant to Sections 2 and 3 of Chapter  
489 30A, to carry out the powers and the provisions of this chapter;  
490 and specifically adopt regulations relating to the following mat-  
491 ters:—

492 (1) the licensing of resort casinos, including regulations relating  
493 to the types of establishments, application process, background  
494 checks, license fees, bonding requirements, and revocation, sus-  
495 pension, and renewal of licenses;

496 (2) the registration and licensing of gaming suppliers and non-  
497 gaming suppliers, including regulations relating to the application  
498 process, background checks, license fees, bonding requirements,  
499 and revocations and suspension of licenses;

500 (3) the licensing of parties in interest, including regulations  
501 relating to the application process, background checks, license  
502 fees, bonding requirements, and revocation and suspension of  
503 licenses;

504 (4) the issuance of 1 or more classes of work permits, criteria  
505 for different classes of work permits, including regulations  
506 relating to the application process, background checks, fees, and  
507 revocation and suspension of work permits;

508 (5) the registration and licensing of labor organizations repre-  
509 senting the employees of a resort casino;

510 (6) the presentation and/or display of all licenses and work per-  
511 mits;

512 (7) the licensing of gaming schools, if any such school is estab-  
513 lished in the Commonwealth, including regulations relating to the  
514 application process, background checks, license fees, and revoca-  
515 tion and suspension of licenses;

516 (8) the monitoring of licensees to ensure compliance with this  
517 chapter and the regulations adopted thereunder, including but not  
518 limited to, requiring that licensees make readily available all doc-  
519 uments, materials, equipment, personnel, and any other items that  
520 the division may wish to investigate;

521 (9) the posting of applicable statutes at casinos regarding civil  
522 and criminal laws applicable to gaming;

523 (10) minimum wage and benefits standards and other condi-  
524 tions of employment for resort casino employees, which standards  
525 or conditions may only be waived in a bona fide collective bar-  
526 gaining agreement;

527 (11) the method for collecting any fines, fees, penalties and  
528 interest imposed by the authority;

529 (12) the method and standards of operation of gaming estab-  
530 lishments including, but not limited to, games, the type and  
531 manner of gaming, wagering limitations, odds, and hours of oper-  
532 ation; provided, however, the authority shall not restrict the  
533 number of hours of operation of any gaming establishment to

534 fewer hours than any competing gaming establishment in Massa-  
535 chusetts;

536 (13) the manufacturing, distribution, sale, testing, servicing,  
537 regulation and inspection of gaming equipment for use in licensed  
538 casinos, including requirements for the identification and  
539 licensing of same;

540 (14) any limitations on mortgage security interests and agree-  
541 ments relating to the property of licensed gaming establishments;

542 (15) any limitations on transfers of interests in licenses;

543 (16) advertising by licensed gaming establishments, including  
544 the monitoring of advertising, particularly to ensure that it is not  
545 directed at minors and other vulnerable populations; provided,  
546 however, licensees shall have the right to conduct reasonable  
547 advertising consistent with that of competing gaming facilities,  
548 and the state lottery;

549 (17) the manner in which winnings, compensation from games,  
550 and gaming devices must be compiled and reported by the  
551 authority; provided further, that electronic gaming devices shall  
552 return as winnings at a minimum 85 percent of all sums wagered;

553 (18) standards for protection of the health, safety, and security  
554 of the public at licensed gaming establishments;

555 (19) the procedures for renewal of all licenses awarded under  
556 this chapter;

557 (20) the minimum procedures to be adopted by each gaming  
558 establishment to exercise effective supervisory and management  
559 control over its fiscal affairs, including the requirement of an  
560 annual audit undertaken in accordance with generally accepted  
561 accounting principles, and the requirement that quarterly reports  
562 be provided by gaming establishments to the authority no more  
563 than 30 days after the close of each quarter;

564 (21) the persons to be excluded or ejected from gaming estab-  
565 lishments, including the type of conduct prohibited and whether  
566 and under what conditions persons under age 21 may be permitted  
567 to enter casinos; and

568 (22) the licensing and regulation of the central computer system  
569 provider which services electronic gaming devices and on and off  
570 site auditing of electronic gaming devices; provided that, the  
571 authority shall ensure that the central computer system shall  
572 employ a widely accepted gaming industry protocol to facilitate

573 slot machine manufacturers' ability to communicate with the  
574 statewide system; and provided further, that the central computer  
575 system provider selected by the authority shall be prohibited from  
576 providing electronic gaming devices, or any other form of player  
577 activated terminal, for use in connection with the central computer  
578 system.

579 The commissioner of revenue shall act as the fiscal agent for  
580 the authority for the purposes of collecting all fees and assess-  
581 ments and for this purpose shall have all the powers provided in  
582 Chapter 62C.

583 In emergencies, the authority may, without complying with  
584 Sections 2 or 3 of Chapter 30A, summarily adopt, amend, or  
585 repeal any regulation, if, at the time, the authority makes a finding  
586 that such action is necessary for the preservation of the public  
587 peace, health, safety, morals, good order, or general welfare,  
588 together with a statement of the facts constituting the emergency;  
589 provided, however, that no emergency action shall exceed 90  
590 days.

591 Notwithstanding any other general or special law to the con-  
592 trary, all files, records, reports, and other information in the pos-  
593 session of any state or local governmental agency including tax  
594 filings and related information that are relevant to an investigation  
595 by the authority conducted pursuant to this chapter shall be made  
596 available by such agency to the authority as requested, except that  
597 investigatory materials compiled by law enforcement out of the  
598 public view whose disclosure would materially prejudice the pos-  
599 sibility of effective law enforcement shall not be subject to this  
600 requirement. Any tax or financial information received from a  
601 governmental agency shall be used solely for effectuating the pur-  
602 poses of this chapter. To the extent that these files, records,  
603 reports, or information are confidential or otherwise privileged  
604 from disclosure under any law, they shall not lose that confidential  
605 or privileged status for having been disclosed to the authority;  
606 provided further, that the authority shall consult with the division  
607 of public records regarding the handling of this information.

608 The authority shall make a continuous study and investigation  
609 of gaming throughout the Commonwealth in order to ascertain the  
610 adequacy and effectiveness of state gaming law or regulations and  
611 may formulate recommendations for changes in such laws and

612 regulations; provided further, that the study shall include eco-  
613 nomic, public health, security, taxation, traffic, regional housing,  
614 regional education, regional infrastructure and environmental  
615 impacts. The authority shall also make a continuous study and  
616 investigation of the operation and administration of similar laws  
617 in other states or countries, of any literature or reports on the sub-  
618 ject, and of any federal laws which may affect the operation of  
619 gaming in the Commonwealth, all with a view to recommending  
620 or effecting changes that will tend to better serve and implement  
621 the purposes of this chapter.

622 Section 4. Restrictions on prior employment and post employ-  
623 ment by authority employees, members of the board, and execu-  
624 tive branch employees; conflicts of interest and scope of  
625 employment.

626 (a) Prior Employment. No person shall be appointed to or  
627 employed by the authority if, during the period commencing 3  
628 years prior to appointment or employment, that person held any  
629 direct or indirect interest in, or any employment by, any person  
630 which is licensed as a casino licensee, a casino service industry  
631 licensee, or a dog or horse racing licensee in the Commonwealth  
632 or in another state or has an application for a gaming establish-  
633 ment license pending before the authority.

634 (b) Conflicts of Interest. Chapter 268A shall apply to all board  
635 members of the authority, all advisory committee members, and to  
636 all employees of the authority, except as specifically provided  
637 herein.

638 (1) The authority shall adopt a code of ethics that governs rela-  
639 tionships and dealings between authority employees and licensees  
640 or applicants for licensure under this chapter.

641 (2) The codes of ethics adopted by the authority shall not be in  
642 conflict with the laws of the Commonwealth, provided, however,  
643 that those codes of ethics may be more restrictive than any law of  
644 this Commonwealth, including Chapter 268A.

645 (3) The codes of ethics adopted by the authority shall be subject  
646 to the approval of the state ethics commission.

647 (4) All board members of the authority, all advisory committee  
648 members, all employees of the authority, and the spouse of each  
649 such individual, shall file a statement of financial interests for the  
650 preceding calendar year with the state ethics commission. The

651 statement of financial interests filed pursuant to this section shall  
652 be on a form prescribed by the state ethics commission pursuant  
653 to Chapter 268B and shall be signed under penalty of perjury by  
654 the reporting person. The statement of financial interests shall be  
655 filed with the state ethics commission within 30 days after the  
656 individual assumed his or her responsibilities with the authority,  
657 on or before May first of each year thereafter that such individual  
658 is associated with the authority as a board member, advisory com-  
659 mittee member or employee, and on or before May first of the  
660 year after such individual ceases to be associated with the  
661 authority; provided, however, that no statement of financial  
662 interest shall be required to be filed for the year in which the indi-  
663 vidual ceased to be associated with the authority if he or she  
664 served less than thirty days in such year.

665 (c) Restrictions on Post Employment.

666 (1) No board member, including those board members who  
667 hold elected office, and no advisory committee member of the  
668 authority shall hold any direct or indirect interest in, or be  
669 employed by, any applicant or by any person licensed by or regis-  
670 tered with the authority for a period of 3 years commencing on the  
671 date the membership on the authority terminates.

672 (2) No employee of the authority may acquire any direct or  
673 indirect interest in, or accept employment with, any applicant or  
674 any person licensed by or registered with the authority, for a  
675 period of 3 years commencing at the termination of employment  
676 with the authority.

677 (3) No authority employee shall represent any person or party  
678 other than the Commonwealth before or against the authority for a  
679 period of 3 years from the termination of the employee's employ-  
680 ment with the authority.

681 (4) No partnership, firm or corporation in which a former  
682 authority board member or employee or former division employee  
683 or agent has an interest, nor any partner, officer or employee of  
684 any such partnership, firm or corporation shall make any appear-  
685 ance or representation which is prohibited to that former member,  
686 employee, or agent; provided, however, that nothing herein shall  
687 prohibit such partnership, firm or corporation from making such  
688 appearance or representation on behalf of a casino service  
689 industry licensed under this chapter.

690 (5) No person who was an employee of the Commonwealth's  
691 executive branch between January 4, 2007 and the date of enact-  
692 ment of this act, shall be employed by the authority, for a period  
693 of 3 years commencing at the termination of employment with  
694 the executive branch.

695 (6) No person who was an employee of the Commonwealth's  
696 executive branch between January 4, 2007 and the date of enact-  
697 ment of this act, shall be employed by any person which is  
698 licensed as a casino licensee, a casino service industry licensee, or  
699 a dog or horse racing licensee in the Commonwealth or has an  
700 application for a gaming establishment license pending before the  
701 authority, for a period of 3 years commencing at the termination  
702 of employment with the executive branch.

703 (7) Prior to appointment or employment, each board member of  
704 the authority, each advisory committee member, and each  
705 employee of the authority, shall swear or affirm that he possesses  
706 no interest in any business or organization licensed by, or regis-  
707 tered with, the authority.

708 (d) Scope of Employment. In addition to the requirements  
709 stated herein, all authority employees, authority board members,  
710 and advisory committee members shall be subject to Chapter  
711 268B. The stricter provisions of this section shall prevail over the  
712 provisions of Chapter 268A.

713 Neither the authority nor any of its officers, agents, employees,  
714 consultants or advisors shall be subject to the provisions of Sec-  
715 tions 9A, 45, 46 and 52 of Chapter 30, or to Chapter 31, or to  
716 Chapter 200 of the acts of 1976.

717 All officers and employees of the authority having access to its  
718 cash or negotiable securities shall give bond to the authority at its  
719 expense in such amounts and with such surety as the board may  
720 prescribe. The persons required to give bond may be included in 1  
721 or more blanket or scheduled bonds.

722 No employee, or member of the authority, or their family mem-  
723 bers shall be permitted to place a wager in any gaming establish-  
724 ment licensed by the authority except in the course of his duties.

725 Section 5. Provisions for Applications of Casino Licenses.

726 (a) Forms of Application. Any person desiring to establish a  
727 resort casino in the Commonwealth shall make an application to  
728 the authority for a casino license.



729 (1) Such application shall include, but shall not be limited to  
730 the following:—

731 (i) the name of the applicant;

732 (ii) the post office address of the applicant, and if a corporation,  
733 the name of the state under the laws of which it is incorporated,  
734 the location of its principal place of business and the names and  
735 addresses of its directors and stockholders;

736 (iii) an independent audit report of all financial activities,  
737 including but not limited to the disclosure of all contributions,  
738 donations, loans or any other financial transactions to or from any  
739 gaming entity or operator in the past 5 years;

740 (iv) an independent audit report of all of the applicants' finan-  
741 cial interests;

742 (v) the location of the proposed resort casino, which shall  
743 include address(es), maps, and book and page numbers from the  
744 appropriate registry of deeds, assessed value of land to be pur-  
745 chased or currently in ownership, market value of the land at the  
746 time of application, and ownership status over the past 5 years,  
747 including all interests, options, agreements in property, and demo-  
748 graphic, geographic, and environmental information, and any  
749 other information requested by the authority;

750 (vi) the proposed architects and designers for the resort casino,  
751 which shall include the name and addresses of the architects, engi-  
752 neers, and designers, and timeline of construction and phases of  
753 construction;

754 (vii) the types of games and gaming to be conducted at the  
755 resort casino, number of tables and electronic gaming devices that  
756 are proposed to be employed at the casino, and the specific loca-  
757 tion of the gaming at the casino site;

758 (viii) a description of the ancillary entertainment services and  
759 amenities to be provided at the proposed resort casino;

760 (ix) the number of hotels, rooms per hotel and other amenities  
761 located at the proposed resort casino;

762 (x) the number of employees to be employed at the resort  
763 casino, including detailed information on the pay rate and benefits  
764 for employees, including any contractors;

765 (xi) the total amount of investment by the applicant in the  
766 resort casino, including all facilities located at the casino site;

767 (xii) completed studies and reports as required by the authority,  
768 which shall include, but are not limited to, an economic benefit  
769 study, both for the Commonwealth and region; an environmental,  
770 traffic and local infrastructure impact study, a study on the impact  
771 of the proposed resort casino to the local and regional economy,  
772 the cost to the municipality and the state for the casino to be at its  
773 proposed location, and the total amounts of municipal and state  
774 tax revenue to be generated by the applicant;

775 (xiii) whether the applicant's casino is part of a regional or  
776 local economic plan;

777 (xiv) whether the applicant is partnering with a federally recog-  
778 nized native American tribe located in the Commonwealth;

779 (xv) whether the applicant has a contract with organized labor  
780 and has the support of organized labor for its application;

781 (xvi) whether the applicant will be using publicly owned land  
782 for the resort casino;

783 (xvii) a statement that the applicant will comply, in case such a  
784 license is issued, with all applicable laws and with all applicable  
785 rules and regulations prescribed by the authority or any other rele-  
786 vant entity;

787 (xviii) a statement that the applicant shall mitigate the potential  
788 negative public health consequences associated with gambling and  
789 the operation of a destination resort casino. As part of this submis-  
790 sion, the applicant must agree to:—

791 (A) maintain as smoke free all indoor facilities operated by the  
792 licensee or anyone working for or under contract with the  
793 licensee;

794 (B) provide complimentary on-site space for an independent  
795 substance abuse and mental health counseling service to be  
796 selected by the Commonwealth;

797 (C) prominently display information on the signs of problem  
798 gambling and how to access assistance;

799 (D) describe a process for individuals to exclude their names  
800 and contact information from the licensee's database or any other  
801 list held by the licensee for use in marketing or promotional com-  
802 munications;

803 (E) provide to the Commonwealth aggregate demographic  
804 information with respect to its customers in a manner and pur-  
805 suant to a schedule to be defined by the Commonwealth;

806 (F) institute other public health strategies as determined by the  
807 authority;

808 (xix) a detailed plan showing the levels of security and safety  
809 for its employees, guests, equipment and money; and

810 (xx) answers to such other questions as the authority may pre-  
811 scribe.

812 (2) The authority may prescribe forms and additional informa-  
813 tion to be used in making such applications.

814 (3) An applicant's request to receive a license under this  
815 chapter shall constitute a request for a determination of the appli-  
816 cant's general character, integrity, and ability to participate or  
817 engage in, or be associated with, gaming.

818 (4) Such applications shall be signed and sworn to, if made by  
819 an individual, by such individual; if made by 2 or more individ-  
820 uals or a partnership, by 1 of such individuals or by a member of  
821 such partnership; if made by a trust, by a trustee of such trust; and  
822 if made by an association or corporation, by the chief executive  
823 and chief financial officers thereof.

824 (5) The authority shall investigate the qualifications of each  
825 applicant under this chapter before any license is issued.

826 (6) With each application, there shall be delivered to the  
827 authority a certified check or bank draft, payable to the authority,  
828 of a non-refundable deposit in the amount of \$350,000 for the pro-  
829 cessing, analysis and review of the application.

830 (b) Eligibility. No person shall be eligible to bid on a resort  
831 casino license unless the person meets the following initial criteria  
832 and clearly states as part of an application that the person:—

833 (1) agrees to be a state lottery reseller for the purpose of lottery  
834 and keno games, and to demonstrate that state lottery and keno  
835 games are readily accessible to its guests;

836 (2) shall, prior to beginning operations, invest no less than \$1  
837 billion into the resort casino, which shall not include the purchase  
838 or lease price of the land where the casino will be located;

839 (3) meets the licensee bonding requirement as set by the  
840 authority;

841 (4) has a debt to equity ratio of not more than 4:1 when the  
842 application is submitted;

843 (5) will have ownership of the land where the resort casino will  
844 be constructed within 60 days after a license has been awarded;

845 (6) shall demonstrate that it is able to pay and shall commit to  
846 paying the licensing fee of at least \$200,000,000 and the operating  
847 licensing payment of at least 27 percent of all gross gaming rev-  
848 enues or \$100,000,000 per year of the license, whichever is  
849 greater;

850 (7) has received a certified and binding vote on a ballot ques-  
851 tion at an election in the local host community where the resort  
852 casino will be located, in favor of such license; provided that the  
853 vote must take place after the effective date of this chapter; pro-  
854 vided further that a binding vote shall be conducted not less than  
855 60 days after the execution of a signed agreement between the  
856 host community and the applicant as provided in (10) below; pro-  
857 vided further that the city, town, or district that holds an election  
858 shall be reimbursed for its expenses related to the election by the  
859 applicant. The authority, in consultation with the local host com-  
860 munity and the office of the secretary of state, shall establish para-  
861 meters for such elections;

862 (8) shall provide for a community impact fee for the local host  
863 community;

864 (9) shall pay for infrastructure costs of the host and surrounding  
865 communities incurred in direct relation to the construction and  
866 operation of a resort casino;

867 (10) shall provide to the authority a signed agreement between  
868 the host community and the applicant to have a resort casino  
869 located within the host community; provided that the agreement  
870 shall include the community impact fee for the local host commu-  
871 nity and all stipulations of responsibilities between the local host  
872 community and the applicant;

873 (11) shall be able to comply with state and local building codes;  
874 and

875 (12) shall formulate for authority approval and abide by an  
876 affirmative-action program of equal opportunity whereby the  
877 applicant guarantees to provide equal employment opportunities  
878 to all employees qualified for licensure in all employment cate-  
879 gories, including a person with a disability, in accordance with  
880 Massachusetts law.

881 (c) Bid Procedure for Each Region

882 (1) The authority shall request bids for the purpose of awarding  
883 casino licenses in each region.

884 (2) The authority shall accept bids only from applicants who  
885 have met the initial eligibility requirements pursuant to subsection  
886 (b) of this section.

887 (3) Before applications are received, the authority shall adopt  
888 regulations setting forth criteria by which each bid shall be evalu-  
889 ated in each region.

890 (4) The bids shall be evaluated to determine which proposal  
891 provides the highest and best value to the region and to the Com-  
892 monwealth. The criteria for determining the highest and best value  
893 to each region and the Commonwealth shall include, but shall not  
894 be limited to, the following:—

895 (i) the overall economic benefit to the Commonwealth;

896 (ii) the amount of the licensing fee and the operating licensing  
897 payment the applicant shall provide to the Commonwealth; pro-  
898 vided that the license fee shall be at least \$200,000,000 and that  
899 the operating licensing payment shall be a percentage of all gross  
900 casino revenues annually; provided that the minimum percentage  
901 shall be 27 percent of all gross gaming revenues or \$100,000,000  
902 per year of the license, whichever is greater.

903 (iii) the proposed infrastructure improvements and economic  
904 development opportunities to the Commonwealth, the local host  
905 community and the region where the resort casino is located;

906 (iv) the extent to which the applicant shall contract with local  
907 and small business owners for the provision of services and goods  
908 at the casino;

909 (v) whether the applicant is a federally recognized Native  
910 American tribe located in the Commonwealth or is partnering with  
911 a federally recognized Native American tribe located in the Com-  
912 monwealth;

913 (vi) the extent to which the proposed project is consistent with  
914 the Commonwealth's sustainable development principles. For pur-  
915 poses of this section, consistency with these principles means at a  
916 minimum the following:—

917 (A) the resort casino has been certified or is capable of being  
918 certified as gold or higher pursuant to the U.S. Green Building  
919 Council Neighborhood Development Rating System. The  
920 authority may prescribe an alternative, independent, third-party  
921 rating after consultation with the secretary of the executive office

922 and energy and environmental affairs, if, for example, that rating  
923 system is not in effect at the time of the license application;

924 (B) the resort casino's proposed buildings have been certified  
925 or are capable of being certified as gold or higher pursuant to the  
926 green building rating system established by Leadership in Envi-  
927 ronmental and Energy Design (LEED). The authority may pre-  
928 scribe an alternative independent, third-party rating after  
929 consultation with the secretary of the executive office of energy  
930 and environmental affairs, if, for example, that rating system is  
931 not in effect at the time of the license application;

932 (C) the electrical equipment and appliances used by the casino  
933 meet United States Environmental Protection Agency efficiency  
934 standards;

935 (D) the casino shall procure 10 percent of its annual electricity  
936 consumption from renewable sources identified by the division of  
937 energy resources pursuant to Section 11F of Chapter 25A. This  
938 requirement may be achieved through procurement of renewable  
939 energy supply and/or through the production of on-site renewable  
940 power;

941 (E) should the casino develop open space land, the applicant  
942 shall purchase, or impose a conservation restriction upon, open  
943 space land of equal or greater size to the open space land devel-  
944 oped by the casino. Any such conservation restriction shall  
945 comply with Section 32 of Chapter 184; and

946 (F) the project shall not be located in any area of critical envi-  
947 ronmental concern designated pursuant to Section 2 of Chapter  
948 21A.

949 (vii) the number of permanent jobs created by the casino  
950 licensee; provided, that the licensee shall create at least 5,000 new  
951 permanent jobs at the casino, or through casino service providers,  
952 over a 5-year period;

953 (viii) whether the applicant agrees to work collaboratively with  
954 the Massachusetts workforce development system, including the  
955 appropriate local workforce entities, to create a workforce devel-  
956 opment plan to recruit and train residents of the Commonwealth  
957 for the casinos, including those who face barriers in finding  
958 employment, such as people with low incomes or receiving public  
959 assistance, the long-term unemployed, veterans, individuals with

960 disabilities, and participants in federal and state workforce pro-  
961 grams;

962 (ix) whether the applicant shall establish, fund, and maintain  
963 internal human resource hiring and training practices that promote  
964 the development of a skilled and diverse workforce with access to  
965 promotion opportunities by a workforce-training program  
966 designed to foster a skilled and diverse workforce by:—

967 (A) establishing transparent career paths with measurable cri-  
968 teria within the casinos that lead to increased responsibility and  
969 higher pay grades that are designed to allow employees to pursue  
970 career advancement and promotion;

971 (B) establishing employee access to additional resources, such  
972 as tuition reimbursement or stipend policies, to enable employees  
973 to acquire the education or job training needed to advance career  
974 ladders based on increased responsibility and pay grades;

975 (C) establishing an on-site child day care program;

976 (D) establishing a program to train the casino workforce in the  
977 identification of and intervention with customers exhibiting  
978 problem gaming behavior;

979 (E) where appropriate, applying for and using workforce  
980 training funds grants established under Section 2RR of Chapter 29  
981 to enhance employee skills; and

982 (F) establishing access to “career coaches” to assist employees  
983 with understanding career advancement opportunities within the  
984 resort casino, as well as where appropriate, establishing an  
985 employee mentoring program to train and retain entry level  
986 employees.

987 (x) the architectural plans or site plans of all structures and  
988 facilities to be used as part of the resort casino;

989 (xi) whether the applicant is including in its application con-  
990 tracts with labor organizations and a provision assuring labor har-  
991 mony during all phases of such construction, renovation, or  
992 reconstruction of the resort casino;

993 (xii) whether all contracts and subcontracts to be awarded in  
994 connection therewith shall contain appropriate provisions by  
995 which contractors and subcontractors or their assignees agree to  
996 afford an equal employment opportunity to all prospective  
997 employees and to all actual employees to be employed by the con-  
998 tractor or subcontractor in accordance with an affirmative action

999 program approved by the authority and consonant with the provi-  
1000 sions of Massachusetts and federal law; and

1001 (xiii) the extent to which the applicant shall mitigate public  
1002 safety effects;

1003 (xiv) the extent to which the applicant shall provide funding for  
1004 the marketing of Massachusetts as a tourist destination.

1005 (5) In assessing the highest and best value to the Common-  
1006 wealth, the authority shall take into account the Commonwealth's  
1007 policy determination that the Commonwealth shall have no more  
1008 than 3 gaming establishments.

1009 (6) It shall be the burden of the applicant to provide convincing  
1010 evidence in its application, to the satisfaction of the authority, that  
1011 a resort casino shall provide the highest and best value to the  
1012 region in which it is located and to the Commonwealth.

1013 (7) As part of its determination for licensure, the authority shall  
1014 investigate and consider the positive and negative effects a casino  
1015 facility will have to the host community and communities con-  
1016 tiguous to the site, provided further, that factors to consider  
1017 include, but are not limited to, the regional and local economy, the  
1018 number and location of resort casinos, job creation or loss, road  
1019 and traffic, public access, water, drainage, sewer, fire department  
1020 coverage, police department coverage and other public safety cov-  
1021 erage, emergency access, housing, public education influx, state  
1022 and municipal creation or reduction and other infrastructure  
1023 related issues.

1024 Section 6. Awarding of and Conditions of Licenses. (a) The  
1025 authority may award casino licenses based on the applications and  
1026 bids submitted to the authority.

1027 (b) Number of Casino Licenses. Notwithstanding any general  
1028 or special laws to the contrary, the authority shall award no more  
1029 than 3 casino licenses in the Commonwealth, with no more than 1  
1030 license awarded per region, as follows:—

1031 region 1 – Suffolk, Middlesex, and Essex counties;

1032 region 2 – Norfolk, Bristol, Plymouth, Nantucket, dukes, and  
1033 Barnstable counties; and

1034 region 3 – Worcester, Hampshire, Hampden, Franklin, and  
1035 Berkshire counties.

1036 (c) Nothing in this Chapter shall require the awarding of a  
1037 license to a region. If the authority is not convinced that an appli-



1038 cant has both met the eligibility criteria and provided convincing  
1039 evidence that the applicant shall provide the highest and best  
1040 value to the region in which the resort casino is located and to the  
1041 Commonwealth, no casino license may be awarded in that region.

1042 (d) For the purposes of determining which applicant may be  
1043 awarded a license, each applicant's bid shall be evaluated to deter-  
1044 mine which will provide the highest and best value to the region  
1045 and to the Commonwealth based on the criteria set out in Section  
1046 5, and any other terms the authority determines by regulation.

1047 (e) If there is more than 1 applicant in a region who is deter-  
1048 mined by the authority to be eligible for a casino license pursuant  
1049 to Section 5, the authority shall conduct an auction to award such  
1050 license. The authority shall retain the services of a reputable  
1051 financial services firm to assist in the construction of the auction  
1052 and shall issue final regulations for such auction at least 30 days  
1053 before the auction occurs.

1054 (f) If an applicant is awarded a casino license, the casino  
1055 licensee shall pay the Commonwealth the following fees:—

1056 (1) a licensing fee in the amount indicated in its bid proposal  
1057 provided that the licensing fee shall be at least \$200,000,000;

1058 (2) an annual operating licensing payment in the amount indi-  
1059 cated in its bid proposal provided that the operating licensing pay-  
1060 ment shall be a percentage of all gross gaming revenues; provided  
1061 further that the minimum percentage shall be at least 27 percent of  
1062 all gross gaming revenues or \$100,000,000 per year of the license,  
1063 whichever is greater;

1064 (g) No person or affiliate may be awarded more than 1 license  
1065 and no person or affiliate may have an interest in more than 1  
1066 license.

1067 (h) Renewability. Each license is renewable every 10 years,  
1068 from the date of first issuance. The authority shall adopt regula-  
1069 tions to establish standards and the process concerning the  
1070 renewability of licenses.

1071 (i) Conditions of Casino Licensure. (1) Every casino licensee  
1072 shall have an affirmative obligation to abide by every statement  
1073 made in its application to the authority and every statement made  
1074 in its bid submission to the authority pursuant to subsection (c) of  
1075 Section 5.

1076 (2) No casino license shall issue to an applicant who is a feder-  
1077 ally recognized Native American tribe located in the Common-  
1078 wealth or an applicant who is partnered with a federally  
1079 recognized Native American tribe located in the Commonwealth  
1080 unless the Native American tribe has entered into a contractual  
1081 agreement with the Commonwealth in which the Native American  
1082 tribe agrees to waive any and all of its rights under the Indian  
1083 Gaming Regulatory Act, 25 U.S.C. Sections 2701 et seq., and be  
1084 subject to the civil and criminal laws, statutes, ordinances, and  
1085 jurisdiction of the Commonwealth with respect to all activities  
1086 relating to the development and operation of the resort casino and  
1087 the applicable rules and regulations prescribed by the authority.

1088 (3) The authority shall make an assessment in each fiscal year  
1089 against each licensee operating a casino in the Commonwealth.  
1090 This assessment is in addition to the licensing fee and the oper-  
1091 ating licensing payment paid by each licensee. This assessment  
1092 shall be made at a rate as shall be determined and certified annu-  
1093 ally by the authority as sufficient to produce revenue to reimburse  
1094 the Commonwealth for funds appropriated for the operation of the  
1095 authority and the division, including the dedicated state police  
1096 units attached to the division, and public safety costs, including  
1097 amounts sufficient to cover the cost of fringe benefits as estab-  
1098 lished by the secretary of administration and finance under  
1099 Section 6B of Chapter 29. This assessment shall be made propor-  
1100 tionately against each licensee based on the proportionate number  
1101 of gaming devices and tables operated by that licensee. Each  
1102 licensee against whom an assessment is made shall pay over daily  
1103 to the authority a pro rata share of the assessment as determined  
1104 by the authority. If the authority fails to expend in any fiscal year  
1105 the total amount assessed under this section, any amount unex-  
1106 pended shall be credited against the assessment to be made in the  
1107 following year and the assessment in such following year shall be  
1108 reduced by that unexpended amount.

1109 (4) Each licensee shall pay the total amount of the licensing fee  
1110 to the Commonwealth immediately upon the awarding of the  
1111 license.

1112 (5) Each licensee shall pay daily to the commissioner of the  
1113 department of revenue as the agent of the authority, the operating  
1114 licensing payment, as provided in Section 5.

1115 (6) No licensee shall operate, invest or own, in whole or in part,  
1116 another licensee's license or casino. If a licensee is found in viola-  
1117 tion of this section, they will be fined up to \$5,000 per day for  
1118 violations.

1119 (7) No person shall be permitted to transfer a license, or a  
1120 direct or indirect real interest, structure, real property, premises,  
1121 facility, personal interest, pecuniary interest, including, but lim-  
1122 ited to, substantial party in interest and affiliates and those entities  
1123 established under the rules and regulations of the secretary of  
1124 state, under any license issued under this chapter, or enter into an  
1125 option contract, management contract, or other agreement or con-  
1126 tract providing for such transfer in the present or future, without  
1127 the notification to and approval by the authority; provided that the  
1128 authority may require either the transferor or transferee or both, as  
1129 determined by the authority, to pay to the Commonwealth an  
1130 amount representing the Commonwealth's share of the increased  
1131 value for those licenses, property or contracts; provided, that the  
1132 authority shall consider as a factor in determining the amount of  
1133 the payment the difference in value of the licensee's property  
1134 between the time of when the licensee received the license and the  
1135 time of or anticipated time of the transfer through the average of 3  
1136 separate assessments made on the licensee, the authority and an  
1137 independent assessor chosen by the authority, and the cost of that  
1138 assessment shall be part of the payment of the transfer; and pro-  
1139 vided further, that the authority shall consider as a factor in deter-  
1140 mining the amount of the payment the market value of the license  
1141 of when it was acquired and at the time of the transfer; provided  
1142 further, that the authority shall consider as a factor in determining  
1143 the amount of the payment the increased value of the property,  
1144 land, establishment, management agent, entity or business value  
1145 as a result of possessing a gaming operator's license. In no event  
1146 shall a bona fide commercial financial institution licensed by the  
1147 division of banks which becomes a substantial party of interest  
1148 with a licensee be deemed to be a transfer; provided further, that  
1149 the authority may reject such transfer if it deems it unsuitable. The  
1150 authority shall adopt rules and regulations for the determination of  
1151 the payment which serves the best interest of the Commonwealth  
1152 as a result of the transfer; provided that the authority may con-  
1153 sider the actual increase or decrease in the pecuniary value of the

1154 license, the real property, and the shares of interest among the  
1155 time it was initially purchased, the time of receiving a license and  
1156 the time of the transfer; provided further, that any payments col-  
1157 lected by the authority on behalf of the Commonwealth are  
1158 deposited in the same manner as license fees are deposited with  
1159 the Commonwealth.

1160 The authority may place any condition or restriction on the  
1161 transfer of a license or substantial interest or party of interest, and  
1162 in all instances it shall consider whether additional compensation  
1163 is owed to the Commonwealth.

1164 No casino licensee shall be permitted to change its business  
1165 governing structure under the law and those entities established  
1166 under the rules and regulations of the secretary of state without  
1167 the notification and approval of the authority.

1168 The authority shall monitor the conduct of all licensees and  
1169 other persons having a material involvement, directly or indi-  
1170 rectly, with a licensee for the purpose of ensuring that licenses are  
1171 not issued to, or held by, and there is no direct or indirect material  
1172 involvement with a licensee by unqualified, disqualified, or  
1173 unsuitable persons.

1174 (8) Each licensee shall be required to have an office available  
1175 to the authority. The authority shall establish the minimum  
1176 requirements for the office.

1177 (9) Each licensee shall be required to have an office available  
1178 for the division's state police personnel. The authority shall estab-  
1179 lish the minimum requirements for square footage for the state  
1180 police office, office furnishings, and parking space.

1181 (10) All licensees shall make readily available all documents,  
1182 materials, equipment, personnel and any other items that the  
1183 attorney general may desire to conduct an investigation. A  
1184 licensee may withhold material that may be considered a trade  
1185 secret or detrimental to the licensee if it were made public and  
1186 have it adjudicated before the authority as to its protected status,  
1187 and require non-disclosure agreements between the attorney  
1188 general and the authority for such material.

1189 (11) The licensee shall cooperate with the division with respect  
1190 to the investigation of any criminal matter that is discovered on its  
1191 property. The licensee shall, upon receipt of criminal or civil  
1192 process compelling testimony or production of documents in con-

1193 nection with any civil or criminal investigation, immediately dis-  
1194 close such information to the authority. This section does not pro-  
1195 hibit private persons or public entities from seeking any remedy  
1196 or damages against a licensee.

1197 (12) Each casino licensee shall require the approval of the  
1198 authority for any capital improvements to the facility in excess of  
1199 \$1,000,000, which is in addition to the original application.

1200 (13) All licensees shall have a duty to inform the authority of  
1201 any action which they reasonably believe would constitute a vio-  
1202 lation of this chapter, and shall assist the authority and any federal  
1203 or state law enforcement agency in the investigation and prosecu-  
1204 tion of such violation. No person who so informs the authority  
1205 shall be discriminated against by an applicant or licensee because  
1206 of the supplying of such information.

1207 (14) All licensees shall collect and annually report to the  
1208 authority a statistical report on the number of candidates hired and  
1209 retained in employment in connection with the workforce devel-  
1210 opment plan and the affirmative action program respectively  
1211 required by Sections 5(b). Failure to comply with this section  
1212 shall cause a licensee to forfeit any state workforce training funds  
1213 or economic incentives.

1214 (15) All licensees shall agree to make a good faith effort to  
1215 identify and recruit candidates from the local labor market area  
1216 and other nearby labor market areas to ensure a diverse work-  
1217 force. Failure to comply with this section shall cause a licensee to  
1218 forfeit any state workforce training funds or economic incentives.

1219 (16) Every casino licensee shall keep conspicuously posted on  
1220 his premises a notice containing the name and numbers of the  
1221 council on compulsive gambling and a statement of its availability  
1222 to offer assistance. The authority may require the licensee to pro-  
1223 vide this information in 1 or more languages.

1224 Section 7. Storage of Documents and Non-Disclosure of Sensi-  
1225 tive Documents and Materials.

1226 The authority shall maintain a file of applications for licenses  
1227 under this chapter, together with a record of all action taken by the  
1228 authority on those applications. Such applications shall be open to  
1229 public inspection; provided however, that the executive director  
1230 shall prohibit access to information that contains law enforcement  
1231 or investigatory information, is a trade secret, or puts the appli-

1232 cant for a license at an unfair disadvantage with other applicants;  
1233 provided further, that the executive director shall consult with the  
1234 division on public records on the appropriate manner of distrib-  
1235 uting or withholding of such information.

1236 The authority may maintain any other files and records as it  
1237 deems appropriate.

1238 Section 8. Authority Operating Account. There shall be estab-  
1239 lished upon the books of the Commonwealth a separate fund to be  
1240 known as the Massachusetts gaming control authority trust fund to  
1241 be expended, without prior appropriation, by the Massachusetts  
1242 gaming control authority. The fund shall consist of the application  
1243 fees collected pursuant to Section 5(a)(6), and all assessment pay-  
1244 ments collected from Section 6. The executive director of the  
1245 authority shall make necessary expenditures from this account for  
1246 the shared administrative costs of the operations and programs of  
1247 the authority. The executive director shall further direct that funds  
1248 from the account shall be expended to provide services in an  
1249 amount reasonably related to the functions of the authority and the  
1250 comptroller may certify for payment amounts in anticipation of  
1251 expected receipts; but no expenditure shall be made from the fund  
1252 which shall cause the fund to be in deficit at the close of each  
1253 fiscal year. The authority shall pay the attorney general the  
1254 amount it requested under Section 14(b) by July first of each year.

1255 Section 9. Gaming License Fee Trust Fund. (a) There shall be  
1256 established and set up on the books of the Commonwealth a sepa-  
1257 rate fund, to be known as the gaming license fee trust fund, in this  
1258 section called the license fee trust fund. The license fee trust fund  
1259 shall consist of all license fees received in consideration of the  
1260 award of licenses under Section 6, and all other monies credited or  
1261 transferred to the fund from any other fund or source pursuant to  
1262 law.

1263 (b) The secretary of administration and finance shall be the  
1264 trustee of the license fee trust fund, and shall transfer monies in  
1265 the fund, without further appropriation, as of June 30 of each  
1266 fiscal year, only as follows and in the following order:—

1267 (1) only if and to the extent determined by the secretary of  
1268 administration and finance, initial payments to the authority and  
1269 to the division for start-up expenses, to the community mitigation

1270 trust fund established by Section 11, and to the public health trust  
1271 fund established by Section 12;

1272 (2) the remaining one-half of the balance in the fund, to the  
1273 general fund for the purpose of reimbursing the cost of the home-  
1274 owners property tax credit under subsection (m) of Section 6 of  
1275 Chapter 62; and

1276 (3) the other remaining one-half of the balance in the fund, to  
1277 the transportation improvement and maintenance trust fund estab-  
1278 lished by Section 13.

1279 Section 10. Gaming Operating Licensing Payment Trust Fund

1280 (a) There shall be established and set up on the books of the  
1281 Commonwealth a separate fund, to be known as the gaming oper-  
1282 ating license payment trust fund, in this section called the oper-  
1283 ating licensing payment fund. The operating licensing payment  
1284 fund shall consist of all operating licensing payments received in  
1285 consideration of the award of licenses under Section 6, and all  
1286 other monies credited or transferred to the fund from any other  
1287 fund or source pursuant to law.

1288 (b) The secretary of administration and finance shall be the  
1289 trustee of the license proceeds fund, and shall transfer monies in  
1290 the fund, without further appropriation, as of June 30 of each  
1291 fiscal year, only as follows and in the following order:—

1292 (1) to the community mitigation trust fund established by  
1293 Section 11, an amount that is 2.5 percent of all operating licensing  
1294 payments made to the operating licensing payment fund under this  
1295 section;

1296 (2) to the public health trust fund established by Section 12, an  
1297 amount that is 2.5 percent of all operating licensing payments  
1298 made to the operating licensing payment fund under this section;

1299 (3) to the state lottery fund, an amount that is the difference  
1300 between the average of the total amounts deposited in the state  
1301 lottery fund in each of the fiscal years 2003 to 2007, inclusive,  
1302 increased by 3 percent in each fiscal year after fiscal year 2007,  
1303 and the total amount deposited in the state lottery fund in the cur-  
1304 rent fiscal year if less than that average amount;

1305 (4) half of the remaining balance in the fund, to the general  
1306 fund for the purpose of reimbursing the cost of the homeowners  
1307 property tax credit under subsection (m) of Section 6 of  
1308 Chapter 62;

1309 (5) the remaining balance in the fund, to the transportation  
1310 improvement and maintenance trust fund established by Section  
1311 13.

1312 Section 11. Community Mitigation Trust Fund. (a) There shall  
1313 be established and set up on the books of the Commonwealth a  
1314 separate fund, to be known as the community mitigation trust  
1315 fund, in this section called the mitigation fund. The mitigation  
1316 fund shall consist of the monies transferred under Sections 9 and  
1317 10, and all other monies credited or transferred to the fund from  
1318 any other fund or source pursuant to law.

1319 (b) The secretary of administration and finance shall be the  
1320 trustee of the mitigation fund and shall expend monies in the fund,  
1321 without further appropriation, to assist the local host community,  
1322 cities, towns and district attorneys in the vicinity of resort casino  
1323 facilities, to address any increases in police, fire, transportation,  
1324 water, sewer, enforcement and prosecution costs, or other services  
1325 directly related to the construction and operation of the facilities;  
1326 provided, however, that the authority shall determine which towns  
1327 and cities will be affected by construction and operation of the  
1328 facilities. The secretary of administration and finance may adopt  
1329 regulations, after a public hearing, governing these expenditures.

1330 Section 12. Public Health Trust Fund. (a) There shall be estab-  
1331 lished and set up on the books of the Commonwealth a separate  
1332 fund, to be known as the public health trust fund, in this section  
1333 called the public health fund. The public health fund shall consist  
1334 of the monies transferred under Sections 9 and Sections 10, and  
1335 all other monies credited or transferred to the public health fund  
1336 from any other fund or source pursuant to law.

1337 (b) The secretary of health and human services shall be the  
1338 trustee of the public health fund and shall expend monies in the  
1339 fund, without further appropriation but subject to approval of an  
1340 annual spending plan by the secretary of administration and  
1341 finance, to meet increased demand for social service and public  
1342 health programs resulting from gaming, including but not limited  
1343 to gambling prevention and addiction services, services to address  
1344 other problems such as domestic violence and child welfare serv-  
1345 ices, an educational campaign to mitigate the potential addictive  
1346 nature of gambling, and on an annual basis, a comprehensive  
1347 study and evaluation system to ensure proper and most effective



1348 mitigation of any negative public health costs. The secretary of  
1349 health and human services may adopt regulations, after a public  
1350 hearing, governing these expenditures.

1351 Section 13. Transportation Infrastructure Improvement and  
1352 Maintenance Trust Fund. (a) There shall be established and set up  
1353 on the books of the Commonwealth a separate fund, to be known  
1354 as the transportation infrastructure improvement and maintenance  
1355 trust fund, in this section called the transportation fund. The fund  
1356 shall consist of the monies transferred under Sections 9 and Sec-  
1357 tions 10 of this act, and all other monies credited or transferred to  
1358 the transportation fund from any other fund or source pursuant to  
1359 law.

1360 (b) The secretary of administration and finance shall be the  
1361 trustee of the transportation fund and shall expend monies in the  
1362 fund, or, as appropriate, shall allocate monies in the fund to other  
1363 agencies, without further appropriation, to design or construct  
1364 maintenance and repairs to the Commonwealth's roads and  
1365 bridges, and to make other investments in the Commonwealth's  
1366 transportation infrastructure.

1367 Section 14. Division of Gaming Investigation and Enforcement.

1368 (a) There is hereby established in the department of the attorney  
1369 general a division of gaming investigation and enforcement. The  
1370 attorney general shall designate an assistant attorney general as  
1371 director of the division. The director of the division may appoint  
1372 and remove, subject to the approval of the attorney general, such  
1373 expert, clerical or other assistants as the work of the division may  
1374 require. The attorney general may purchase any necessary equip-  
1375 ment for the purpose of conducting an investigation. Subject to  
1376 the approval of the secretary of public safety and security, the  
1377 colonel of the state police shall assign such supervisory and inves-  
1378 tigative personnel and other resources to the division as may be  
1379 necessary to fulfill its obligations under this chapter.

1380 The powers and duties of the division shall be as follows:—

1381 (1) investigate allegations of crimes committed on the  
1382 premises, crimes involving or impacting the operation of the  
1383 casino or games, and violations of this chapter;

1384 (2) be on the premises at any time that it deems appropriate and  
1385 inspect and examine all operations, books, records, and any other  
1386 documents;

1387 (3) inspect all gaming devices and equipment used or to be used  
1388 in a resort casino at any time it deems appropriate;  
1389 (4) have access to all records of the authority;  
1390 (5) investigate all applications, certificates and permits issued  
1391 pursuant to the provisions of this chapter;  
1392 (6) conduct all background checks on applicants for employ-  
1393 ment by the authority and any gaming establishment in a resort  
1394 casino and applicants for licensure, including obtaining criminal  
1395 record information, and share such information as necessary with  
1396 the authority; provided that such background checks shall be con-  
1397 ducted by the state police unit assigned to the division;  
1398 (7) conduct audits of casino operations at such times, under  
1399 such circumstances, and to such extent as the director shall deter-  
1400 mine, including reviews of accounting, administrative and finan-  
1401 cial records, and management control systems, procedures and  
1402 records utilized by a casino licensee;  
1403 (8) receive and take appropriate action on any referral from the  
1404 authority relating to any evidence of a violation of this chapter or  
1405 the regulations adopted thereunder;  
1406 (9) initiate, prosecute, intervene and defend proceedings before  
1407 the authority, or appeals therefrom, as the division may deem  
1408 appropriate;  
1409 (10) investigate and enforce the provisions of this chapter and  
1410 any regulations adopted hereunder or any gaming related statutes,  
1411 rules or regulations adopted by any agency, department, board,  
1412 commission, division or authority of the Commonwealth or any  
1413 political subdivision thereof that is involved in controlled gaming  
1414 pursuant to this chapter, and prosecute all proceedings for viola-  
1415 tions of this chapter or any regulations adopted hereunder;  
1416 (11) be entitled to request and receive information, materials  
1417 and any other data from any licensee or registrant, or applicant for  
1418 a license or registration under this chapter;  
1419 (12) ensure that there is no duplication of duties and responsi-  
1420 bilities between it and the authority; and  
1421 (13) report to the attorney general recommendations that pro-  
1422 mote more efficient operations of the division.  
1423 (b) The division shall be compensated for its duties through the  
1424 assessment pursuant to Section 6. The attorney general shall  
1425 submit a budget to the authority by January first for an annual

1426 appropriation, and the authority shall make such appropriation to  
1427 the division by July first of each year.

1428 Section 15. Penalties for Licensing and Gaming Violations.

1429 (a) Willful evasion of license fees; other acts and omissions.

1430 (1) any person who willfully fails to report, pay, or truthfully  
1431 account for and pay over any license fee or tax imposed by the  
1432 provisions of this chapter or by the regulations adopted by the  
1433 authority, or willfully attempts in any manner to evade or defeat  
1434 any such license fee, tax, or payment thereof shall be punished by  
1435 imprisonment in state prison for not more than 5 years or in a  
1436 house of correction for not more than 2 and one-half years, or a  
1437 fine of not more than \$100,000, or both, and in the case of a  
1438 person other than a natural person, the amount of a fine may be up  
1439 to \$5,000,000.

1440 (2) any person who willfully resists, prevents, impedes, inter-  
1441 feres with, or makes any false, fictitious, or fraudulent statement  
1442 or representation to the authority or to the division or to their  
1443 agents or employees in the performance of duties pursuant to this  
1444 chapter shall be punished by imprisonment in state prison for not  
1445 more than 5 years or in a house of correction for not more than 2  
1446 years and one-half years, or a fine of not more than \$25,000, or  
1447 both.

1448 (b) Unlicensed gaming unlawful.

1449 (1) any person who conducts or operates, or permits to be con-  
1450 ducted or operated, any game, electronic gaming device, or  
1451 gaming equipment in violation of the licensing provisions of this  
1452 chapter or the regulations adopted by the authority shall be pun-  
1453 ished by imprisonment in state prison for not more than 5 years or  
1454 imprisonment in a house of correction for not more than 2 and  
1455 one-half years, or a fine of not more than \$25,000, or both such  
1456 fine and imprisonment, and in the case of a person other than a  
1457 natural person, the amount of a fine may be up to \$100,000.

1458 (2) any licensee who, without the permission of the authority,  
1459 (1) places controlled games, electronic gaming devices, or gaming  
1460 equipment into play or displays such controlled games, electronic  
1461 gaming devices, or gaming equipment in a casino or gaming  
1462 establishment or (2) receives, directly or indirectly, any compen-  
1463 sation or reward or any percentage or share of the revenue, for  
1464 keeping, running, or carrying on any controlled game, or owning

1465 the real property or location in which any controlled game occurs,  
1466 shall be punished by imprisonment in a house of correction for not  
1467 more than 2 and one-half years, or a fine of not more than  
1468 \$25,000, or both, and in the case of a person other than a natural  
1469 person, the amount of a fine may be up to \$100,000.

1470 (3) any person who conducts or operates any controlled game,  
1471 electronic gaming device, or gaming equipment after his license  
1472 has expired and prior to the actual renewal thereof shall be pun-  
1473 ished by imprisonment in a house of correction for not more than  
1474 1 and one-half years, or a fine of not more than \$25,000, or both,  
1475 and in the case of a person other than a natural person, the amount  
1476 of a fine may be up to \$100,000.

1477 (c) Swindling and cheating. (1) In addition to the provisions of  
1478 Section 75 of Chapter 266, a person is guilty of swindling and  
1479 cheating if the person purposely or knowingly by any trick or  
1480 sleight of hand performance or by a fraud or fraudulent scheme,  
1481 cards, dice, or other gaming equipment, for himself or for another,  
1482 wins or attempts to win money or property, or a representative of  
1483 either, or reduces a losing wager or attempts to reduce a losing  
1484 wager in connection to controlled gaming.

1485 The penalties for swindling and cheating offenses shall be as  
1486 follows:—

1487 (i) any person who swindles or cheats where the amount  
1488 involved is \$75,000 or more shall be punished by imprisonment in  
1489 state prison for not more than 10 years, or a fine of not more than  
1490 \$1,000,000, or both.

1491 (ii) any person who swindles or cheats where the amount  
1492 involved is \$10,000 or more and less than \$75,000 shall be pun-  
1493 ished by imprisonment in state prison for not more than 5 years,  
1494 or a fine of not more than \$500,000, or both.

1495 (iii) any person who swindles or cheats where the amount  
1496 involved is \$1,000 or more and less than \$10,000 shall be pun-  
1497 ished by imprisonment in state prison for not more than 3 years or  
1498 imprisonment in a house of correction for not more than 2 and  
1499 one-half years, or a fine of not more than \$100,000, or both such  
1500 fine and imprisonment.

1501 (iv) any person who swindles or cheats where the amount  
1502 involved is less than \$1,000 shall be punished by imprisonment in

1503 a house of correction for not more than 2 and one-half years, or by  
1504 a fine of not more than \$10,000, or both.

1505 (2) Each episode or transaction of swindling or cheating may be  
1506 the subject of a separate prosecution and conviction. In the discre-  
1507 tion of the prosecutor, multiple episodes or transactions of swin-  
1508 dling and cheating committed as part of a single scheme or course  
1509 of conduct may be treated as a single offense, and the amounts  
1510 involved in acts of swindling and cheating committed pursuant to  
1511 a scheme or course of conduct, whether by the same person or  
1512 several persons, may be aggregated in determining the amount  
1513 involved in the offense.

1514 (d) Unlawful use or possession of devices to obtain an advan-  
1515 tage. (1) Any person who in playing, conducting or operating a  
1516 game in a licensed casino or gaming establishment, uses or assists  
1517 another in the use of (1) a computerized, electronic, electrical, or  
1518 mechanical device, which is designed, constructed, or pro-  
1519 grammed specifically for use in obtaining an advantage in any  
1520 game in a licensed casino or gaming establishment or (2) any  
1521 other cheating or thieving device, including, but not limited to,  
1522 bogus or counterfeit chips, coins or dice; coins or tokens attached  
1523 to strings or wires; marked cards; electronic or magnetic devices;  
1524 or tools, drills, wires, keys, or devices designed for the purpose of  
1525 and suitable for opening, entering, or affecting the operation of  
1526 any gaming equipment, or for removing money or other contents  
1527 therefrom, shall be punished by imprisonment in state prison for  
1528 not more than 5 years or imprisonment in a house of correction for  
1529 not more than 2 and one-half years, or a fine of not more than  
1530 \$25,000, or both such fine and imprisonment.

1531 (2) Any person who possesses any computerized, electronic,  
1532 electrical, or mechanical device or other cheating or thieving  
1533 device described in subsection (1) with the intent to defraud,  
1534 cheat, or swindle shall be punished by imprisonment in a house of  
1535 correction for not more than 2 and one-half years, or a fine of not  
1536 more than \$10,000, or both.

1537 Possession of any computerized, electronic, electrical, or  
1538 mechanical device or other cheating or thieving device described  
1539 in subsection (1) within a casino or gaming establishment shall  
1540 constitute prima facie evidence of an intent to defraud, cheat or  
1541 swindle, except that possession by any licensee, or employee of a

1542 licensee, acting in furtherance of his employment within a  
1543 licensed casino or gaming establishment shall not constitute such  
1544 prima facie evidence.

1545 (3) Any cheating or thieving device used or possessed in viola-  
1546 tion of this section shall be subject to seizure and forfeiture by the  
1547 division.

1548 (e) Unlawful operation of cheating games and devices by a  
1549 licensee or employee; penalties.

1550 (1) It shall be unlawful for any licensee or employee to:—

1551 (i) knowingly conduct or operate, or allow to be conducted or  
1552 operated, any cheating or thieving game or device; or

1553 (ii) knowingly conduct or operate or expose for play any game  
1554 or games played with cards, dice, or any electronic or mechanical  
1555 device, or any combination of games or devices, which have in  
1556 any manner been marked or tampered with, or placed in a condi-  
1557 tion, or operated in a manner, the result of which tends to deceive  
1558 the public or tends to alter the normal random selection of charac-  
1559 teristics or the normal chance of the game or to alter the result of  
1560 the game.

1561 (2) Any person who violates this section shall be punished by  
1562 imprisonment in state prison for not more than 5 years or impris-  
1563 onment in a house of correction for not more than 2 and one-half  
1564 years, or a fine of not more than \$25,000, or both such fine and  
1565 imprisonment, and in the case of a person other than a natural  
1566 person, the amount of a fine may be up to \$100,000.

1567 (3) Any cheating or thieving game or device used in violation  
1568 of this section shall be subject to seizure and forfeiture by the  
1569 division.

1570 (f) Unlawful manufacture, distribution, sale, or service of  
1571 gaming equipment; penalties.

1572 (1) Any person who manufactures, distributes, sells, or services  
1573 any gaming equipment in violation of the provisions of this  
1574 chapter or the regulations adopted by the authority for the pur-  
1575 poses of defrauding, cheating, or swindling any person playing,  
1576 operating, or conducting a controlled game at a casino or gaming  
1577 establishment shall be punished by imprisonment in state prison  
1578 for not more than 5 years or imprisonment in a house of correction  
1579 for not more than 2 and one-half years, or a fine of not more than  
1580 \$25,000, or both such fine and imprisonment.

1581 (2) Any such unlawfully manufactured, distributed, sold, or ser-  
1582 viced gaming equipment shall be subject to seizure and forfeiture  
1583 by the division.

1584 (g) Employment without license or registration; penalties.

1585 (1) Any person who, without obtaining the requisite license or  
1586 registration as provided in this chapter, works or is employed in a  
1587 position whose duties would require licensing or registration  
1588 under the provisions of this chapter shall be punished by impris-  
1589 onment in a house of correction for not more than 6 months, or a  
1590 fine of not more than \$10,000, or both.

1591 (2) Any person who employs or continues to employ an indi-  
1592 vidual not duly licensed or registered under the provisions of this  
1593 chapter in a position whose duties require a license or registration  
1594 under the provisions of this chapter shall be punished by impris-  
1595 onment in a house of correction for not more than 6 months, or a  
1596 fine of not more than \$10,000, or both, and in the case of a person  
1597 other than a natural person, the amount of a fine may be up to  
1598 \$100,000.

1599 (h) Gaming by certain persons prohibited; penalties.

1600 (1) Any person under the age of 21 who plays, places wagers  
1601 at, or collects winnings from, whether personally or through an  
1602 agent, any controlled game shall be punished by imprisonment in  
1603 a house of correction for not more than 6 months, or a fine of not  
1604 more than \$1,000, or both.

1605 (2) Any licensee or employee who knowingly allows a person  
1606 under the age of 21 to play, place wagers at, or collect winnings,  
1607 whether personally or through an agent, shall be punished by  
1608 imprisonment in a house of correction for not more than 1 year, or  
1609 a fine of not more than \$10,000, or both, and in the case of a  
1610 person other than a natural person, the amount of a fine may be up  
1611 to \$500,000. A subsequent violation of this section shall subject  
1612 the licensee or employee to imprisonment in a house of correction  
1613 for not more than 2 years, or a fine of not more than \$50,000, or  
1614 both, and in the case of a person other than a natural person, the  
1615 amount of a fine may be up to \$1,000,000.

1616 (i) Placing, sending, transmitting, relaying wagers to another  
1617 person prohibited under certain circumstances; penalties.

1618 Any person who knowingly transmits or receives a wager of  
1619 any type by any telecommunication device, including telephone,

1620 cellular phone, Internet, local area network, including wireless  
1621 local networks, or any other similar device or equipment or other  
1622 medium of communication, or knowingly installs or maintains  
1623 said device or equipment for the transmission or receipt of  
1624 wagering information shall be punished by imprisonment in a  
1625 house of correction for not more than 2 years, or a fine of not  
1626 more than \$25,000, or both.

1627 This section shall apply to any person who, from within this  
1628 Commonwealth, transmits a wager to, or receives a wager from,  
1629 another person or gaming establishment within or outside of this  
1630 Commonwealth and any person who, from outside this Common-  
1631 wealth, transmits a wager to, or receives a wager from, another  
1632 person or gaming establishment within this Commonwealth.

1633 This section shall not apply to the use of a local area network as  
1634 a means to place authorized wagers in a licensed gaming estab-  
1635 lishment, or use of said devices or equipment by the authority in it  
1636 duties in regulating, enforcing, or auditing a licensed gaming  
1637 operator.

1638 (j) Post employment restrictions; penalties. Any person who  
1639 knowingly violates any of the provisions contained in subsection  
1640 (a) or subsection (c) of Section 4 shall be punished by imprison-  
1641 ment in state prison for not more than 5 years or in a house of cor-  
1642 rection for not more than 2 and one-half years, or a fine of not  
1643 more than \$100,000, or both.

1644 Section 16. Withholdings from Winnings for Child Support and  
1645 Tax Payments. Prior to disbursement of gambling winnings in  
1646 excess of \$600, all licensed casinos shall review information fur-  
1647 nished by the IV-D agency, as set forth in Chapter 119A, and the  
1648 department of revenue to ascertain whether the individual col-  
1649 lecting such winnings owes past-due child support to the Com-  
1650 monwealth or to an individual to whom the IV-D agency is  
1651 providing services, and to ascertain whether the individual owes  
1652 any past-due tax liability to the Commonwealth. If the individual  
1653 owes past-due child support or a past-due tax liability, after with-  
1654 holding state and federal taxes pursuant to this section, the casino  
1655 shall first disburse to the IV-D agency the full amount of the win-  
1656 nings or such portion of the winnings that satisfies the individual's  
1657 past-due child support obligation and, if funds remain available  
1658 after that disbursement, the casino shall disburse to the depart-



1659 ment of revenue the full amount of the winnings or such portion  
1660 of the winnings that satisfies the individual's past-due tax liability,  
1661 and the casino shall notify the IV-D agency or the department of  
1662 revenue, respectively, of the individual's name, address, and social  
1663 security number. The casino shall disburse to the individual only  
1664 that portion of the winnings, if any, remaining after the individu-  
1665 al's past-due child support obligation and the individual's past-due  
1666 tax liability have been satisfied.

1667 Section 17. Other Tax Benefits Unavailable to Resort Casinos.

1668 A casino or business located on casino property cannot be a  
1669 certified project within the meaning of Section 3F of Chapter  
1670 23A. Resort casinos may not be designated an economic opportu-  
1671 nity area within the meaning of Section 3E of Chapter 23A.  
1672 Resort casinos are not eligible for tax increment financing as set  
1673 forth in Section 59 of Chapter 40 or special tax assessments set  
1674 forth in Section 3E of Chapter 23A. Resort casinos may not be  
1675 classified and taxed as recreational land under the provisions of  
1676 Chapter 61B. Resort casinos may not be designated as a develop-  
1677 ment district within the meaning of Chapter 40Q. Unless other-  
1678 wise provided, a resort casino or any business located or to be  
1679 located within a resort casino is not eligible for the following  
1680 credits or deductions listed in Chapter 62 or Chapter 63:— the  
1681 investment tax credit under Section 31A of Chapter 63, the  
1682 employment credit under Section 31C of Chapter 63, the van pool  
1683 credit under Section 31E of Chapter 63, the deduction for expen-  
1684 ditures for industrial waste treatment or air pollution control under  
1685 Section 38D of Chapter 63, the deduction for compensation paid  
1686 to an eligible business facility's employees domiciled in a section  
1687 of substantial poverty under Section 38F of Chapter 63, the alter-  
1688 native energy sources deduction under Section 38H of Chapter 63,  
1689 the research expense credit under Section 38M of Chapter 63, the  
1690 economic opportunity area credit under Section 6(g) of Chapter  
1691 62, and Section 38N of Chapter 63, the abandoned building  
1692 deduction under Section 3B(a)(10) of Chapter 62, and Section  
1693 38O of Chapter 63, the harbor maintenance tax credit under  
1694 Section 38P of Chapter 63, the brownfields credit under Section  
1695 6(j) of Chapter 62, and Section 38Q of Chapter 63, the historic  
1696 rehabilitation tax credit under Section 6J of Chapter 62 and  
1697 Section 38R of Chapter 63, the automatic sprinkler system depre-

1698 ciation deduction under Section 38S of Chapter 63, and the credit  
1699 for a solar water heating system under Section 38T of Chapter 63.

1 SECTION 7. Subsection (d)(1) of Section 2 of Chapter 62, as  
2 appearing in the 2006 Official Edition, is hereby amended by  
3 inserting after paragraph (P) the following paragraph:—

4 (Q) Any deduction for losses from wagering transactions  
5 allowed by Section 165 of the Code.

1 SECTION 8. Subsection (k) of Section 6 of Chapter 62, as  
2 appearing in the 2006 Official Edition, is hereby amended by  
3 inserting after subsection (9) the following subsection :—

4 (10) A person who is otherwise eligible to claim the credit  
6 under subsection (m) of this section may elect the credit available  
7 under this subsection or under subsection (m), but not both.

1 SECTION 9. Section 6 of Chapter 62, as so appearing, is  
2 hereby amended by inserting after paragraph (l) the following  
3 paragraph:—

4 (m)(1) As used in this subsection the following words shall  
5 have the following meanings:—

6 “Real estate tax payment”, the real estate tax levied pursuant  
7 to Chapter 59, on the taxpayer’s residence and actually paid by the  
8 taxpayer during the taxable year, exclusive of special assessments  
9 and delinquent interest, and less any abatement granted. In the  
10 case of a multi-unit dwelling, a land area in excess of 1 acre or a  
11 multi-purpose building or land area, the real estate tax payment  
12 shall constitute that portion of the real estate tax levied and paid  
13 on the entire building or area, which corresponds to the portion of  
14 the area or building used and occupied as the residence of the tax-  
15 payer, in accordance with procedures established by the commis-  
16 sioner.

17 “Residence”, shall have the same meaning as in subsection (k)  
18 of Section 6 of Chapter 62, except that the term shall not include a  
19 residence rented by the taxpayer.

20 “Taxpayer’s total income”, (1) An owner of residential property  
21 located in the Commonwealth who is not a dependent of another  
22 taxpayer and who occupies said property as his principal resi-  
23 dence shall be allowed a credit based upon the ratio of the taxpay-

er's real estate tax payments during the taxable year established by the commissioner to the taxpayer's total income, expressed as a percentage. The amount of such credit for any qualifying taxpayer shall be determined as follows, based on the "percentage bracket" of a taxpayer's total income in which such taxpayer's real estate tax payments fall, as follows:—

(i) from 0 to 2.49 percent of total income ("bracket 1") —no credit;

(ii) from 2.5 percent through 4.99 percent of total income ("bracket 2") — the base credit amount for the taxable year, as determined by the commissioner;

(iii) from 5 percent through 7.49 percent of total income ("bracket 3") — the base amount, as so determined, plus \$75;

(iv) from 7.5 percent through 9.9 percent of total income ("bracket 4") — the base amount, as so determined, plus \$150; and

(v) from 10 percent of total income and above ("bracket 5") — the base amount, as so determined, plus \$225.

The base amount of credit for purposes of this section shall be determined annually by the commissioner. The base amount shall be computed using reasonable estimates of the number of qualifying taxpayers in each percentage bracket in the taxable year and shall take into account the amount of the operating licensing payments from the prior fiscal year available for funding the credit, as certified to the commissioner by the secretary of administration and finance. The commissioner shall annually determine the base credit amount so as to award credits totaling, as nearly as practicable, the amount of revenue so certified. The secretary may estimate the operating licensing payments available from the previous fiscal year to the extent necessary to provide timely certification to the commissioner on or before September first of each calendar year.

(2) No credit shall be allowed for a married individual unless a joint return is filed.

(3) No credit shall be allowed by this subsection with respect to the real estate tax payment on more than 1 residence of any taxpayer during any taxable year, but a taxpayer whose principal place of residence changes during the course of the year may claim a credit for the real estate tax payment with respect to each

62 such principal residence, attributable to the period that such prin-  
63 cipal residence is actually occupied as such during the year.

64 (4) The credit allowed by this subsection shall be allowed  
65 against the taxes imposed by this chapter for the taxable year,  
66 reduced by the other credits permitted by this section. If the credit  
67 exceeds the tax as so reduced, the commissioner shall treat such  
68 excess as an overpayment and shall pay the taxpayer, without  
69 interest, the amount of such excess. Any person entitled to claim  
70 any credit pursuant to this subsection and not otherwise required  
71 to file a return under Section 6 of chapter 62C may obtain a  
72 refund in the amount of such credit by filing a return and claiming  
73 a refund.

74 (5) Any credit provided by this subsection shall not be counted  
75 as income in determining eligibility or benefits under any other  
76 means-tested assistance program, including but not limited to all  
77 such cash, food, medical, housing, energy and educational assis-  
78 tance programs.

79 (6) A person who is otherwise eligible to claim the credit under  
80 subsection (k) of this section may elect the credit available under  
81 this subsection or under subsection (k), but not both.

82 (7) Every board or officer of a city, town, district or local com-  
83 mission responsible for the collection of property taxes, special  
84 assessments or water and sewer charges shall transmit to the com-  
85 missioner at the times and in the form and manner as the commis-  
86 sioner prescribes a report of the payments made by every person  
87 who is liable during the taxable year to the city, town, district or  
88 commission for such taxes, assessments and charges. The report  
89 shall be used solely for purposes of verifying eligibility to claim  
90 the credit under this subsection. The Commonwealth shall pay to  
91 each city, town, district or commission an amount sufficient to  
92 defray the additional costs imposed under the provisions of this  
93 subsection. In every year not later than August first, the state  
94 auditor shall determine and deliver to the commissioner a state-  
95 ment of the incremental costs attributed to this subsection and  
96 estimated to be incurred by each city, town, district and commis-  
97 sion in the next fiscal year. The commissioner shall include in his  
98 budget recommendations for that fiscal year a request for an  
99 appropriation in an amount equal to the estimated costs, and shall,

100 not later than September first, disburse to each city, town, district  
101 or commission its share of any funds appropriated for the costs.

1 SECTION 10. Section 2 of Chapter 62B, as appearing in the  
2 2006 Official Edition, is hereby amended by striking out the sev-  
3 enth paragraph and inserting in place thereof the following para-  
4 graph:—

5 Every person, including the United States, the Commonwealth  
6 or any other state, or any political subdivision or instrumentality  
7 of the foregoing, making any payment of lottery or wagering win-  
8 nings, which are subject to tax under Chapter 62 and which are  
9 subject to withholding under Section 3402(q) (without the excep-  
10 tion for slot machines, and keno, and bingo played at licensed  
11 casinos in the Commonwealth in subsection (q)(5)) and (r) of the  
12 Internal Revenue Code shall deduct and withhold from such pay-  
13 ment an amount equal to 5 percent of such payment, except that  
14 such withholding for purposes of this chapter shall apply to pay-  
15 ments of winnings of \$600 or greater notwithstanding any con-  
16 trary provisions of the Internal Revenue Code, as amended from  
17 time to time. For purposes of this chapter and Chapter 62C, such  
18 payment of winnings shall be treated as if it were wages paid by  
19 an employer to an employee. Every person who is to receive a  
20 payment of winnings which is subject to withholding under this  
21 section shall furnish to the person making such payment a state-  
22 ment, made under penalties of perjury, containing the name,  
23 address and taxpayer identification number of the person  
24 receiving the payment and of each person entitled to any portion  
25 of such payment.

1 SECTION 11. Chapter 62B, as so appearing, is hereby further  
2 amended by striking out Section 5, and inserting in place thereof  
3 the following section:—

4 Section 5. Every employer required to deduct and withhold  
5 from an employee or payee a tax under Section 2, or who would  
6 have been required under said section in the case of an employee  
7 to deduct and withhold a tax if the employee had not claimed any  
8 personal exemption or dependency exemptions, shall furnish to  
9 each such employee or payee in respect of the wages or other pay-

10 ments paid by such employer to such employee or payee during  
11 the calendar year, on or before January 31 of the succeeding year,  
12 or, if an employee's employment is terminated before the close of  
13 such calendar year, within 30 days from the day on which the last  
14 payment of wages is made, a written statement in duplicate  
15 showing the name of the employer, the name of the employee or  
16 payee and his social security account number, if any, the total  
17 amount of wages or other amounts subject to taxation under  
18 Chapter 62, and the total amount deducted and withheld as tax.  
19 This statement may contain such other information as the commis-  
20 sioner may prescribe. The commissioner may grant reasonable  
21 extensions of time, not exceeding 60 days, for the furnishing of  
22 the statement.

23 Every employer who fails to withhold or pay to the commis-  
24 sioner any sums required by this chapter to be withheld or paid  
25 shall be personally and individually liable therefore to the Com-  
26 monwealth. The term "employer," as used in this section and in  
27 Section 11, includes any person or entity required to withhold tax  
28 from any payee, and includes an officer or employee of a corpora-  
29 tion, or a member or employee of a partnership or limited liability  
30 company, who as such officer, employee or member is under a  
31 duty to withhold and pay over taxes in accordance with this  
32 section and Section 2. Any sum withheld in accordance with  
33 Section 2 shall be considered to be held in trust for the Common-  
34 wealth.

35 If an employer in violation of the provisions of this chapter  
36 fails to withhold the tax in accordance with Section 2, and there-  
37 after the tax against which such tax may be credited, pursuant to  
38 Section 9, is paid, the tax so required to be withheld shall not be  
39 collected from the employer; but this paragraph shall in no case  
40 relieve the employer from liability for any penalties or addition to  
41 the tax otherwise applicable in respect of such failure to withhold.

1 SECTION 12. Section 8 of Chapter 62C, as appearing in the  
2 2006 Official Edition, is hereby amended by striking out the last  
3 sentence of the first paragraph and inserting in place thereof the  
4 following sentence:—

5 The same basis of reporting shall be utilized for income that is  
6 subject to taxation or withholding under Chapter 62 or 62B but is  
7 not subject to taxation or withholding under the Code.

1 SECTION 13. Subsection (f) of Section 38 of Chapter 63, as  
2 appearing in the 2006 Official Edition, is hereby amended by  
3 striking the word “and” in line 162, and is further amended by  
4 inserting at the end of the paragraph in line 169 the following  
5 phrase:—

6 and (6) in the case of a business deriving receipts from oper-  
7 ating a gaming facility or otherwise deriving receipts from con-  
8 ducting a wagering business or activity, income-producing activity  
9 shall be considered to be performed in this Commonwealth to the  
10 extent that the location of wagering transactions or activity that  
11 generated the receipts is in this Commonwealth.

1 SECTION 14. Section 1 of Chapter 137 of the General Laws is  
2 hereby amended by inserting in the first sentence after the word  
3 “gaming,” the following phrase:—, except for controlled gaming  
4 conducted pursuant to Chapter 12B,.

1 SECTION 15. Section 2 of Chapter 137 of the General Laws,  
2 as appearing in the 2006 Official Edition, is hereby amended by  
3 inserting after the words “preceding section” in line 3 the  
4 following phrase:—, except for controlled gaming conducted pur-  
5 suant to Chapter 12B,.

1 SECTION 16. Section 1 of Chapter 271 of the General Laws,  
2 as appearing in the 2006 Official Edition, is hereby amended by  
3 inserting after the words “hands of those gaming,” the following  
4 words:— except as permitted under Chapter 12B,.

1 SECTION 17. Section 2 of Chapter 271, as so appearing, is  
2 hereby amended by inserting after the words “hands of those  
3 playing,” the following words:—, except as permitted under  
4 Chapter 12B,.

1 SECTION 18. Section 3 of Chapter 271, as so appearing, is  
2 hereby amended by inserting after the words “used in gaming,”  
3 the following words:—, except as permitted under Chapter 12B,.

1 SECTION 19. Section 5 of Chapter 271, as so appearing, is  
2 hereby amended by inserting after the words “valuable thing,” the  
3 following words:—, except as permitted under Chapter 12B,.

1 SECTION 20. Section 5A of Chapter 271, as so appearing, is  
2 hereby amended by inserting at the end of the second paragraph  
3 the following sentence:—

4 This section shall not apply to persons who manufacture, trans-  
5 port, sell, offer for sale, store, display, repair, recondition, possess  
6 or use any gambling device or parts for use therein for controlled  
7 gaming conducted under Chapter 12B.

1 SECTION 21. Section 16A of Chapter 271, as so appearing is  
2 hereby amended by inserting after the word “wagerers” in line 17  
3 the following phrase:— or to persons who organize, supervise,  
4 manage or finance persons for purpose of controlled gaming con-  
5 ducted under Chapter 12B.

1 SECTION 22. Section 17 of Chapter 271, as so appearing, is  
2 hereby amended by inserting at the end of the paragraph the  
3 following sentence:—

4 This section shall not apply to persons who organize, supervise,  
5 manage or finance persons for purpose of controlled gaming con-  
6 ducted under Chapter 12B.